RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking

PROPOSED RULES:
785:45-1-2. Definitions [AMENDED]
Subchapter 5. Surface Water Quality Standards
785:45-5-4. Applicability of narrative and numerical criteria [AMENDED]
785:45-5-5. Water Quality Standards variance [NEW]
785:45-5-6. Compliance schedules [NEW]
785:45-5-7. Site-specific criteria [NEW]
Appendix G. Numerical Criteria to Protect Beneficial Uses [REVOKED]
Appendix G. Numerical Criteria to Protect Beneficial Uses [NEW]
Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [REVOKED]
Appendix H. Beneficial Use Designations for Certain Limited Areas of Groundwater [NEW]

SUMMARY:
The Oklahoma Water Resources Board ("OWRB") is proposing to amend, or is considering amending, various provisions of Oklahoma Administrative Code ("OAC") 785:45 as follows:

The proposed revision to the "variance" definition (785:45-1-2) will align the definition of "variance" with the proposed revision to Water Quality Standards variance process (785:45-5-5). The proposed revision to the Water Quality Standards Variance process will provide an effective standards tool that allows for both improved water quality over time and regulatory flexibility. The proposed change to 785:45-5-4 strikes the current variance procedures, which are restrictive and ineffective. Additionally, language addressing compliance schedule and site-specific criteria currently in 785:45-5-4 are moved to the new sections 785:45-5-6 and 785:45-5-7, respectively. This proposed revision provides improved clarity and utility of Oklahoma’s Water Quality Standards. Moreover, the site-specific criteria (785:45-5-7) language is revised to clarify that site-specific criteria may be developed to address specific waterbody conditions on a case-by-case basis.

The proposed updates and new criteria in Appendix G, Numerical Criteria to Protect Beneficial Uses, include human health criteria for several pollutants in order to protect the Public and Private Drinking Water Supply and Fish Consumption beneficial uses. Additionally, the selenium criterion for the protection of the Fish and Wildlife Propagation beneficial use is revised in order to incorporate new scientific information regarding the toxicity and bioaccumulation of selenium in aquatic life. The revised selenium criteria includes both water and fish tissue elements. The proposed Appendix H, Beneficial Use Designations for Certain Limited Areas of Groundwater, corrects a site location legal description in the Arkansas River Alluvium aquifer.

Other amendments may be considered as a result of public comments.

AUTHORITY:
Oklahoma Water Resources Board, 82 O.S., §§ 1085.30 and 1085.30a; 27A O.S., § 1-3-
101; and 82 O.S., § 1085.2.

COMMENT PERIOD:
Persons wishing to present written comments may do so at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 17, 2019. Persons wishing to present oral comments to the OWRB may do so at the public hearing on January 15, 2019.

PUBLIC HEARING:
A public hearing will be held January 15, 2019 during the monthly meeting of the OWRB which will begin at 9:30 A.M. in the Board Room of the OWRB's offices located at 3800 North Classen Blvd., Oklahoma City, Oklahoma.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:
The OWRB requests that any business entities affected by these proposed rules provide the OWRB, within the Comment Period from December 3, 2018 through January 17, 2019, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rules. Business entities may submit this information in writing to Monty Porter at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118 before 5:00 P.M. on January 17, 2019.

COPIES OF PROPOSED RULES:
Copies of the proposed amendments may be reviewed at the OWRB's office location at 3800 North Classen Blvd., Oklahoma City, Oklahoma 73118, or may be obtained from the "Contact Person" identified below upon prepayment of the copying charge. The proposed amendments may also be viewed on the OWRB web site at http://www.owrb.ok.gov

RULE IMPACT STATEMENT:
Pursuant to 75 O.S., § 303(D), a Rule Impact Statement is available for review at the OWRB's office, 3800 North Classen Blvd., Oklahoma City, Oklahoma. The Rule Impact Statement may also be viewed on the OWRB web site at http://www.owrb.ok.gov

CONTACT PERSON:
Monty Porter, Assistant Chief of Water Quality Programs Division, 405-530-8800, Monty.Porter@owrb.ok.gov.