RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking

PROPOSED RULES:
Subchapter 5. Implementation of Numerical Criteria to Protect Fish and Wildlife from Toxicity Due to Conservative Substances
785:46-5-10. Implementation of multimedia criteria for bioaccumulative pollutants in permits [NEW]

Subchapter 14. Implementation of Fish Tissue Criterion Element and Fish Tissue Monitoring to Protect the Fish and Wildlife Beneficial Use [NEW]
785:46-14-1. Applicability and scope [NEW]
785:46-14-2. Definitions (Reserved) [NEW]
785:46-14-3. Composite fish tissue sample minimum requirements [NEW]
785:46-14-4. Fish tissue special studies for NPDES Permits [NEW]
785:46-14-5. Fish Tissue Studies for Monitoring and Assessment [NEW]

Subchapter 15. Use Support Assessment Protocols
785:46-15-3. Data requirements [REVISED]
785:46-15-4. Default protocols [REVISED]
785:46-15-5. Assessment of Fish and Wildlife Propagation support [REVISED]

SUMMARY:
The Oklahoma Water Resources Board ("OWRB") is proposing to amend, or is considering amending, various provisions of Oklahoma Administrative Code ("OAC") 785:46 as follows:
The OWRB is proposing to revise the selenium criterion for the protection of the Fish and Wildlife Propagation beneficial use. The revised selenium criteria includes both water and fish tissue elements. This revision requires new implementation requirements for the new fish tissue criterion. For permitting, a new section 785:46-5-10 is proposed that describes how reasonable potential will be determined, relationship of the revised criterion to water quality based effluent limits, and necessary monitoring requirements. Additionally, a new subchapter 785:46-14 is proposed that provides for how fish tissue monitoring will occur. The various sections include minimum requirements for composite fish tissue samples, fish tissue special studies for NPDES permits, and fish tissue studies for monitoring and assessment. Finally, use support assessment protocols in 785:46-15 have been revised to include data requirements, default protocols, and assessment protocols for fish tissue assessments.
The use support assessment protocols in 785:46-15 have been revised to update and clarify data requirements. Additionally, the assessment of aesthetics support has been revised to clarify that nutrient thresholds and turbidity are considered as means for protocol implementation.
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.