

Codification through the 2007 legislative session.

**Subchapters 8 and 17:**

Board adoption - August 22, 2006

Gubernatorial approval - October 8, 2006

Legislative approval and final adoption - March 27, 2007

Effective date - June 15, 2007

**TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL**

**SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES**

**PART 11. VISIBILITY PROTECTION STANDARDS**

- 252:100-8-70. Applicability
- 252:100-8-71. Definitions
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**PART 11. VISIBILITY PROTECTION STANDARDS**

**252:100-8-70. Applicability**

This Part applies to any BART-eligible source (existing stationary facility as defined in OAC 252:100-8-71) which may reasonably be anticipated to cause or contribute to visibility impairment at any mandatory Class I Federal area.

**252:100-8-71. Definitions**

The following words and terms when used in this Part shall have the following meaning, unless the context clearly indicates otherwise. All terms used in this Part that are not defined in this Subsection shall have the meaning given to them in OAC 252:100-1-3, 252:100-8-1.1, 252:100-8-31, or in the Oklahoma Clean Air Act.

**"BART-eligible source"** means an existing stationary facility as defined in this Section.

**"Best Available Retrofit Technology"** or **"BART"** means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by a BART-eligible source. The emission limitation must be established on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining

useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

**"Deciview"** means a measurement of visibility impairment. A deciview is a haze index derived from calculated light extinction, such that uniform changes in haziness correspond to uniform incremental changes in perception across the entire range of conditions, from pristine to highly impaired. The deciview haze index is calculated based on the following equation (for the purposes of calculating deciview, the atmospheric light extinction coefficient must be calculated from aerosol measurements): Deciview haze index =  $10 \ln_e (b_{\text{ext}}/10 \text{ Mm}^{-1})$ ; where  $b_{\text{ext}}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ ).

**"Existing stationary facility"** means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 TPY or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

- (A) Fossil-fuel fired steam electric plants of more than 250 million Btu/hr input,
- (B) Coal cleaning plants (thermal dryers),
- (C) Kraft pulp mills,
- (D) Portland cement plants,
- (E) Primary zinc smelters,
- (F) Iron and steel mill plants,
- (G) Primary aluminum ore reduction plants,
- (H) Primary copper smelters,
- (I) Municipal incinerators capable of charging more than 250 tons of refuse per day,
- (J) Hydrofluoric, sulfuric, and nitric acid plants,
- (K) Petroleum refineries,
- (L) Lime plants,
- (M) Phosphate rock processing plants,
- (N) Coke oven batteries,
- (O) Sulfur recovery plants,
- (P) Carbon black plants (furnace process),
- (Q) Primary lead smelters,
- (R) Fuel conversion plants,
- (S) Sintering plants,
- (T) Secondary metal production facilities,
- (U) Chemical process plants,
- (V) Fossil-fuel boilers of more than 250 million Btu per hour heat input,
- (W) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
- (X) Taconite ore processing facilities,
- (Y) Glass fiber processing plants, and
- (Z) Charcoal production facilities

**"In existence"** means that the owner or operator has obtained all necessary preconstruction approvals or permits required by the Department and EPA and either has:

- (A) begun, or caused to begin, a continuous program of physical on-site construction of the facility; or
- (B) entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator to undertake a program of construction of the facility to be completed in a reasonable time.

**"In operation"** means engaged in activity related to the primary design function of the source.

**"Integral vista"** means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

**"Mandatory Class I Federal area"** means any area identified in 40 CFR part 81, subpart D.

**"Potential to emit"** means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

**"Reasonably attributable"** means attributable by visual observation or any other technique the Department deems appropriate.

**"Secondary emissions"** means emissions which occur as a result of the construction or operation of a BART-eligible source but do not come from the BART-eligible source. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the BART-eligible source.

**"Visibility in any mandatory Class I Federal area"** includes any integral vista associated with that area.

#### **252:100-8-72. Incorporation by reference**

Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule, of 40 CFR 51 is hereby incorporated by reference as it exists July 6, 2005.

#### **252:100-8-73. BART applicability**

(a) Each BART-eligible source that emits any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area is subject to BART. This shall be determined using the criteria in Section III of Appendix Y of 40 CFR 51 in effect on July 6, 2005. Thresholds for visibility impairment are set forth in OAC 252:100-8-73(a)(1) and (2).

(1) A source that is responsible for an impact of 1.0 deciview or more is considered to cause visibility impairment.

(2) A source that causes an impact greater than 0.5 deciviews contributes to visibility impairment.

(b) Air pollutants emitted by sources in Oklahoma which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area are NO<sub>x</sub>, SO<sub>2</sub>, PM-10, and PM-2.5.

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination is not required:

(1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),

(2) for PM-10 if the BART-eligible source has the potential to emit less than 15 TPY of such pollutant, or

(3) if the owner or operator of the BART-eligible source demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air

pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area.

**252:100-8-74. Exemption from BART requirements**

- (a) The owner or operator of any BART-eligible source subject to the requirements of this Part to install, operate, and maintain BART may apply to the Administrator for exemption from that requirement.
- (b) Should the owner or operator of a BART-eligible source wish to apply for exemption as provided for in 40 CFR 51.303, such application must be accompanied by a written concurrence from the Director.

**252:100-8-75. Visibility standards for existing stationary facilities**

- (a) The owner or operator of a BART-eligible source that emits any air pollutant which causes or contributes to visibility impairment in any mandatory Class I Federal area shall establish emissions limitations by the application of BART.
  - (1) The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reduction achievable for each BART-eligible source that is subject to BART.
  - (2) After the level of control that represents BART is determined, an emission limit representing this level of control must be established.
  - (3) BART may be established as design, equipment, work practice, or other operational standards or combination thereof, when limitations on measurement technologies make emission standards infeasible, if such application achieves equivalent results. Such standard, to the degree possible, shall set forth the emission reduction to be achieved and must provide for compliance by means which achieve equivalent results.
- (b) The determination of BART shall be made pursuant to the guidelines in Appendix Y of 40 CFR 51 in effect on July 6, 2005.
- (c) The owner or operator of a BART-eligible source shall submit to the Director by December 1, 2006:
  - (1) an application for a waiver pursuant to OAC 252:100-8-73, or
  - (2) an application for an exemption pursuant to OAC 252:100-8-74.
- (d) A BART-eligible source that has not applied for a waiver pursuant to OAC 252:100-8-73 or an exemption pursuant to OAC 252:100-8-74 shall submit to the Director a BART determination by March 30, 2007.
- (e) The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.
- (f) The owner or operator of each source subject to BART shall maintain the control equipment required by this Part and establish procedures to ensure such equipment is properly and continuously operated and maintained.
- (g) The owner or operator of any BART-eligible source that might cause or contribute to visibility impairment in any mandatory Class I Federal area must provide a BART analysis at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:
  - (1) the pollutant is emitted by that BART-eligible source;
  - (2) controls representing BART for the pollutant have not previously been required under this Part; and
  - (3) the visibility impairment in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

**252:100-8-76. Permit requirements**

The BART requirements for any BART-eligible source that is subject to BART shall be submitted to the Director in an application for a permit modification pursuant to OAC 252:100-8-7.2 no later than March 30, 2007.

**252:100-8-77. Cap and/or trade program**

Nothing in this rule precludes the establishment of a cap and/or trade program that will achieve greater reasonable progress than would be achieved through the installation and operation of BART.

**252:100-8-78. Modeling**

All modeling required by this Part shall be performed in accordance with a protocol approved by the Director.

REGULAR MEETING/ HEARING AGENDA  
AIR QUALITY ADVISORY COUNCIL  
April 19, 2006, 9:00 a.m.  
OSU- Tulsa Campus, 700 N. Greenwood, Tulsa, OK

*Please turn off your cell phones.*

1. Call to Order – Sharon Myers, Chair
2. Roll Call – Myrna Bruce
3. Approval of Minutes – January 18, 2006 Regular Meeting
4. Public Rulemaking Hearings
  - A. OAC 252:100-5. Registration, Emission Inventory and Annual Operation Fees [AMENDED]

The Department proposes to amend Subchapter 5 by clarifying the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

- B. OAC 252:100-8. Permits for Part 70 Sources, Part 11 [NEW]

The Department proposes a new Part 11 which incorporates the federal Best Available Retrofit Technology (BART) requirements into Subchapter 8. The BART requirements are part of the Regional Haze State Implementation Plan (SIP).

1. Presentation – Matt Paque
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption and emergency adoption

- C. OAC 252:100-5. Registration, Emission Inventory and Annual Operation Fees [AMENDED]
- OAC 252:100-7. Permits for Minor Facilities [AMENDED]
- OAC 252:100-9. Excess Emission Reporting Requirements [AMENDED]
- OAC 252:100-23. Control of Emissions From Cotton Gins [AMENDED]
- Appendix P. Regulated Air Pollutants [NEW]

The Department proposes to add a new definition for “regulated air pollutant” to Subchapters 5, 7 and 9. A new Appendix P, Regulated Air Pollutants, is being added to Chapter 100 as part of these amendments. The terms “Actual emissions,” “Allowable emissions” and “Regulated pollutant (for fee calculation)” are being amended in OAC 252:100-5-1.1. In addition, Section 5-1.1 is being amended by the addition of a new definition for “Gross particulate matter” (GPM) which replaces the term “TSP” in the section. The term “GPM” also replaces the term “TSP” in OAC 252:100-23-2. The term “Actual emissions” is also being amended in OAC 252:100-7-1.1.

1. Presentation – Max Price
2. Questions and discussion by Council/Public
3. Possible action by Council

**D. OAC 252:100-17. Incinerators  
100-17-61. [AMENDED]**

The Department proposes to amend Section 61 of Subchapter 17 to update the incorporations by reference for commercial and industrial solid waste incineration (CISWI) units.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council
4. Roll call vote for permanent adoption

**E. OAC 252:100-17. Incinerators  
Part 11. Other Solid Waste Incineration Units [NEW]**

The Department proposes to add a new Part 11, Other Solid Waste Incinerators (OSWI), to establish state emission standards and other enforceable requirements for existing OSWI.

1. Presentation – Heather Bragg
2. Questions and discussion by Council/Public
3. Possible action by Council

**F. OAC 252:100-44. Control of Mercury Emissions From Coal Fired Electric Steam  
Generating Units [NEW]**

The Department is proposing three possible options for a new Subchapter 44, Control of Mercury Emissions from Coal Fired Electric Steam Generating Units:

**Option 1:** Incorporation by reference of the federal Clean Air Mercury Rule (CAMR) issued in May 2005.

**Option 2:** Adoption of the model rule issued in November 2005 by the State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO).

**Option 3:** A rewrite of the federal CAMR by the Department with state-developed timelines and requirements.

1. Presentation – Morris Moffett
2. Questions and discussion by Council/Public
3. Possible action by Council

**G. Appendix H. De Minimis Facilities  
Appendix I. Insignificant Activities (Registration) List  
Appendix J. Trivial Activities (De Minimis) List**

The Department proposes to reformat and update the information in all three lists in Appendices H, I and J. Appendices may not be amended, so staff requests that the Council revoke the outdated Appendices and approve the new lists proposed today.

1. Presentation – Joyce Sheedy
2. Questions and discussion by Council/Public
3. Possible action by Council

**5. Division Director's Report -- Eddie Terrill**

6. **New Business** – Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda.

7. **Adjournment** – The next regular meeting is proposed for 9 a.m., Wednesday, July 19, 2006, in Oklahoma City.

Lunch Break, if necessary.

Should you have a disability and need an accommodation, please notify the DEQ Air Quality Division three days in advance at 405-702-4212. Hearing impaired persons may call the text telephone (TDD) Relay Number at 1-800-722-0353 for TDD machine use only.

April 3, 2006

**MEMORANDUM**

**TO:** Members of the Air Quality Advisory Council

**FROM:** Eddie Terrill, Director <sup>CT</sup>  
Air Quality Division

**SUBJECT:** New Part 11 of OAC 252:100-8

Enclosed are copies of the proposed amendment to OAC 252:100-8 adding new Part 11 (Visibility Protection Standards), the rule impact statement for the proposed amendment, a summary of comments and staff responses, and a list of the BART-eligible sources in the state.

The Department is proposing to amend Subchapter 8, Permits for Part 70 Sources, by the addition of a new Part 11, which incorporates the federal Best Available Retrofit Technology (BART) requirements into Chapter 100. The BART requirements are part of the Regional Haze State Implementation Plan (SIP).

States are required to implement the Federal BART requirements as a part of a Regional Haze SIP no later than December 2007. Stationary sources that were not in operation prior to August 7, 1962, and were in existence on August 7, 1977, that have the potential to emit 250 tons per year or more of any air pollutant, are BART-eligible sources if they belong to one of the 26 categories listed in the definition of "existing stationary facility" contained in proposed OAC 252:100-8-71. BART-eligible sources that cause visibility impairment in any Class I Area are subject to BART and must establish emissions limitations by the application of BART. Any owner or operator of a BART-eligible source who wishes to obtain an exemption or a waiver from BART must submit an application for an exemption or a waiver to the Director by December 1, 2006. The owner or operator of any BART-eligible source that has not applied for an exemption or a waiver shall submit a BART determination to the Director by March 30, 2007. BART must be installed and operated at the sources subject to BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

This amendment was recommended to the Environmental Quality Board by the Air Quality Advisory Council on January 18, 2006. However, errors subsequently discovered in the proposed amendment necessitated its return by the Board to the Council for correction.

Notice of the proposed rule changes was published in the Oklahoma Register on March 15, 2006, and comments were requested from members of the public.

At the April 19, 2006, Air Quality Advisory Council meeting, staff will ask the Council to recommend these changes to the Environmental Quality Board for adoption as a permanent and emergency rule. Because of the EPA's December 2007 Regional Haze SIP deadline, and the Department's expected BART permitting turn-around time, it is important that the council recommend this proposal for passage at the April 19, 2006, meeting.

Enclosures: Proposed OAC 252:100-8, new Part 11  
Rule Impact Statement  
Summary of comments and responses  
BART-eligible sources list

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY  
CHAPTER 100. AIR POLLUTION CONTROL

INTENDED RULEMAKING ACTION:

Notice of proposed EMERGENCY and PERMANENT rulemaking

PROPOSED RULES:

Subchapter 8. Permits for Part 70 Sources  
Part 11. Visibility Protection Standards [NEW]  
252:100-8-70. [NEW]  
252:100-8-71. [NEW]  
252:100-8-72. [NEW]  
252:100-8-73. [NEW]  
252:100-8-74. [NEW]  
252:100-8-75. [NEW]  
252:100-8-76. [NEW]  
252:100-8-77. [NEW]

ACCEPTED

FEB 24 2006

For Publication In  
THE OKLAHOMA REGISTER

Docket No. 06-204

SUMMARY:

The Department is proposing a new Part 11 which incorporates the federal Best Available Retrofit Technology (BART) requirements into Chapter 100. The BART requirements are part of the Regional Haze State Implementation Plan (SIP).

AUTHORITY:

Environmental Quality Board powers and duties, 27A O.S., §§ 2-2-101, 2-2-201; and Oklahoma Clean Air Act, §§ 2-5-101 et seq.

COMMENT PERIOD:

Written comments on the proposed rulemakings will be accepted prior to and at the hearing on April 19, 2006. For comments received at least 5 business days prior to the Council meeting, staff will post written responses on the Department's web page at least 1 day prior to the Council meeting and provide hard copy written responses to these comments to the Council and the public at that Council meeting. Oral comments may be made at the April 19, 2006 hearing and at the appropriate Environmental Quality Board meeting.

PUBLIC HEARINGS:

Before the Air Quality Advisory Council at 9:00 a.m. on Wednesday, April 19, 2006, at the Tulsa Campus of Oklahoma State University, 700 N. Greenwood, North Hall 150, Tulsa.

Before the Environmental Quality Board on June 20, 2006, at Redbud Hall, SWOSU Conference Center, 1121 N. 7th, Weatherford, OK.

DEQ proposes to submit Subchapter 8 to the EPA for inclusion in the Oklahoma SIP. This hearing shall also serve as the public hearing to receive comments on the proposed revisions to the SIP under the requirements of 40 Code of Federal Regulations (CFR) § 51.102 of the EPA regulations concerning the SIPs and 27A O.S. § 2-5-107(6)(c).

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

The Department requests that business entities or any other members of the public affected by these rules provide the Department, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and the indirect costs such as reporting, record keeping, 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.

COPIES OF PROPOSED RULES:

The proposed rules are available for review 30 days prior to the

hearing at the Air Quality Division of the Department and on the Department's website ([www.deq.state.ok.us](http://www.deq.state.ok.us)), Air Quality Division, Council Meetings, or copies may be obtained from the contact person by calling (405) 702-4100.

**RULE IMPACT STATEMENT:**

Copies of the rule impact statement may be obtained from the contact person.

**CONTACT PERSON:**

Please send written comments to Joyce Sheedy (e-mail: [joyce.sheedy@deq.state.ok.us](mailto:joyce.sheedy@deq.state.ok.us)), Department of Environmental Quality, Air Quality Division, 707 N. Robinson, Oklahoma City, OK 73102. Mailing address is P.O. Box 1677, Oklahoma City, Oklahoma 73101-1677, FAX (405) 702-4101.

**PERSONS WITH DISABILITIES:**

Should you desire to attend but have a disability and need an accommodation, please notify the Air Quality Division three (3) days in advance at (405) 702-4100.

## SUBCHAPTER 8. PERMITS FOR PART 70 SOURCES

### PART 11. VISIBILITY PROTECTION STANDARDS

#### 252:100-8-70. Applicability

This Part applies to any BART-eligible source (existing stationary facility as defined in OAC 252:100-8-71) which may reasonably be anticipated to cause or contribute to visibility impairment at any mandatory Class I Federal area.

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"Best Available Retrofit Technology" or "BART" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by a BART-eligible source. The emission limitation must be established on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

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$$\text{Deciview haze index} = 10 \ln_e (b_{\text{ext}}/10 \text{ Mm}^{-1}).$$

Where  $b_{\text{ext}}$  = the atmospheric light extinction coefficient, expressed in inverse megameters ( $\text{Mm}^{-1}$ ).

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determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

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- (A) begun, or caused to begin, a continuous program of physical on-site construction of the facility; or
- (B) entered into binding agreements or contractual obligations which cannot be cancelled or modified without substantial loss to the owner or operator to undertake a program of construction of the facility to be completed in a reasonable time.

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"Reasonably attributable" means attributable by visual observation or any other technique the Department deems appropriate.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a BART-eligible source but do not come from the BART-eligible source. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the BART-eligible source.

"Visibility in any mandatory Class I Federal area" includes any integral vista associated with that area.

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(1) A single source that is responsible for an impact of 1.0 deciview or more is considered to cause visibility impairment.

(2) A source that causes an impact greater than 0.5 deciviews contributes to visibility impairment.

(b) Air pollutants emitted by sources in Oklahoma which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area are NO<sub>x</sub>, SO<sub>2</sub>, PM-10, and PM-2.5.

(c) The owner or operator of a BART-eligible source may request and obtain a waiver from the Department that a BART determination is not required:

(1) for SO<sub>2</sub> or for NO<sub>x</sub> if the BART-eligible source has the potential to emit less than 40 TPY of such pollutant(s),

(2) for PM-10 if the BART-eligible source ~~emits~~ has the potential to emit less than 15 TPY of such pollutant, or

(3) if the owner or operator of the BART-eligible source demonstrates by modeling, in accordance with a protocol approved by the Director, that a source does not emit any air pollutant which may reasonably be anticipated to cause or contribute to visibility impairment in any mandatory Class I Federal area. ~~This third option is limited to BART-eligible sources with plantwide emissions of greater than 40 TPY but less than 250 TPY of SO<sub>2</sub> or NO<sub>x</sub> and/or greater than 15 TPY but less than 250 TPY of PM 10.~~

**252:100-8-74. Exemption from BART requirements**

(a) The owner or operator of any BART-eligible source subject to the requirements of this Part to install, operate, and maintain BART may apply to the Administrator for exemption from that requirement.

(b) Should the owner or operator of a BART-eligible source wish to apply for exemption as provided for in 40 CFR 51.303, such application must be accompanied by a written concurrence from the Director.

**252:100-8-75. Visibility standards for existing stationary facilities**

(a) The owner or operator of a BART-eligible source that emits any air pollutant which causes or contributes to visibility impairment in any mandatory Class I Federal area shall establish emissions limitations by the application of BART.

(1) The determination of BART must be based on an analysis of the best system of continuous emission control technology available and associated emission reduction achievable for each BART-eligible source that is subject to BART.

(2) After the level of control that represents BART is determined, an emission limit representing this level of control must be established.

(3) BART may be established as design, equipment, work practice, or other operational standards or combination thereof, when limitations on measurement technologies make emission standards infeasible, if such application achieve equivalent results. Such standard, to the degree possible, shall set forth the emission reduction to be achieved and must provide for compliance by means which achieve equivalent results.

(b) The determination of BART shall be made pursuant to the guidelines in Appendix Y of 40 CFR 51 in effect on July 6, 2005.

(c) In order to obtain an exemption or a waiver, the owner or operator of each a BART-eligible source subject to BART pursuant to OAC 252:100-8-73 shall submit the proposed BART to the Director by December 1, 2006. ~~BART-eligible sources that have~~

~~not obtained a waiver pursuant to OAC 252:100-8-73 or an exemption pursuant to OAC 252:100-8-74 shall be deemed subject to BART on December 1, 2006.~~

(1) an application for a waiver pursuant to OAC 252:100-8-73,  
or

(2) an application for an exemption pursuant to OAC 252:100-8-74.

(d) A BART-eligible source that has not applied for a waiver pursuant to OAC 252:100-8-73 or an exemption pursuant to OAC 252:100-8-74 shall submit to the Director a BART determination by March 30, 2007.

~~(d)~~ (e) The owner or operator of each BART-eligible source subject to BART shall install and operate BART no later than five years after EPA approves the Oklahoma Regional Haze SIP.

~~(e)~~ (f) The owner or operator of each source subject to BART shall maintain the control equipment required by this Part and establish procedures to ensure such equipment is properly and continuously operated and maintained.

~~(f)~~ (g) The owner or operator of any BART-eligible source that might cause or contribute to visibility impairment in any mandatory Class I Federal area must provide a BART analysis at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:

- (1) the pollutant is emitted by that BART-eligible source;
- (2) controls representing BART for the pollutant have not previously been required under this Part; and
- (3) the visibility impairment in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

#### **252:100-8-76. Permit requirements**

The BART requirements for any BART-eligible source that is subject to BART shall be submitted to the Director in an application for a permit modification pursuant to OAC 252:100-8-7.2 no later than ~~December 1, 2006~~ March 30, 2007.

#### **252:100-8-77. Cap and/or trade program.**

Nothing in this rule precludes the establishment of a cap and/or trade program that will achieve greater reasonable progress than would be achieved through the installation and operation of BART.

#### **252:100-8-78. Modeling**

All modeling required by this Part shall be performed in accordance with a protocol approved by the Director.



O K L A H O M A  
DEPARTMENT OF ENVIRONMENTAL QUALITY

**AIR QUALITY COUNCIL**

Attendance Record

April 19, 2006

Oklahoma City, Oklahoma

NAME and/or AFFILIATION

Address and/or Phone and/or E-Mail

Mylina Bruce	DEQ 1717D
Heather Bragg	DEQ x4176
Bud Ground	PSO
GARY MARTIN?	PONCA CITY
Mary Wofford	588-7530
Lynn Reed	588-7380
Sooi Ooi	732-1388
Jim Haught / ONEOK, Inc.	(918) 588-7640 jim.haught@oneok.com
ROD SOBER / RES CONSULTING	918 663 9850 rsober@resconsulting.com
Dustin Givens / Georgia-Pacific	918/683-7671 dustin.givens@gapinc.com
Steve Landers / Georgia-Pacific	918-683-7671 steve.landers@gapinc.com
Mark Lawson / Spirit Aerosystems	918-832-2238 Mark.Lawson@Boeing.com
BRIAN TOPPING / MAGELLAN PIPELINE	918 574-7381 BRIAN.TOPPING@magellanpipe.com
Pam Bennett / Lafarge Cement	918-388-1471 pamela.bennett@lafarge.com
Chonda Jeffries DEQ	918 2931626
GARY COLLINS / TERRA NITROGEN L.P.	918 2661511 gcollins@terraindustries.com
DON WHITNEY TRINITY CONSULTANTS	405-228-3292
Julia Bevers OGE Energy	405-553-3439
Melody Martin OGE	405 553-3297
Thaddeus Henry AECT	417-885-9227 thendy@aect.com
Andrew Horner Sunoco	918 594-6284
Nancy Marshment	DEQ
SHANNON FERRELL Hall EST:11	594-0640
David Provencher CP Chem	918-661-7999
Bonnie Miller	1099-2011 2114



DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY ADVISORY COUNCIL

ITEM NUMBER 4B *SC8 Part 11 BART*

HELD ON APRIL 19, 2006, AT 9:30 A. M.

IN TULSA, OKLAHOMA

\* \* \* \* \*

ORIGINAL

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1

2 MEMBERS OF THE COUNCIL

3 SHARON MYERS - CHAIR

4 DAVID BRANECKY - VICE-CHAIR

5 BOB CURTIS - MEMBER

6 BOB LYNCH - MEMBER

7 GARY MARTIN - MEMBER

8 JERRY PURKAPLE - MEMBER

9 DON SMITH - MEMBER

10 RICK TREEMAN - MEMBER

11 LAURA WORTHEN - MEMBER

12

13 STAFF MEMBERS

14 MYRNA BRUCE - SECRETARY

15 EDDIE TERRILL - DIVISION DIRECTOR

16 DR. JOYCE SHEEDY - AQD

17 MATT PAQUE - LEGAL

18 BEVERLY BOTCHLET-SMITH - AQD

19 PHILLIP FIELDER - AQD

20

21

22

23

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25

Page 4

1 Specifically, the proposed OAC

2 252:100-8-73(c)(4) read that the modeling

3 exemption waiver was limited to sources

4 less than 250 tons per year of NOx, SO2,

5 and PM-10. This was not the intent of the

6 exemption and the proposed language has

7 been changed.

8 Other changes from the January 18,

9 2006 proposal are:

10 A revision to OAC 252:100-8-73(c)(2)

11 to indicate that the waiver for PM-10 is

12 also based on a facility's potential to

13 emit; also the Department recommends

14 changing the dates for which sources shall

15 be required to submit proposed BART or

16 exemptions from BART.

17 Notice of the proposed rule changes

18 was published in the Oklahoma Register on

19 March 15, 2006, and comments were requested

20 from members of the public.

21 In addition to the comments provided

22 for you today, the Department has received

23 comments from Rob Kaufman of Georgia

24 Pacific, and EPA Region 6.

25 Staff recommends that the Council

Page 3

1

2 PROCEEDINGS

3 MS. BOTCHLET-SMITH: Okay. The

4 next Item on the Agenda is OAC 252:100-8,

5 Permits for Part 70 Sources, Part 11.

6 Mr. Matt Paque will give the Staff

7 presentation.

8 MR. PAQUE: Madam Chair, Members

9 of the Council, ladies and gentlemen. My

10 name is Matt Paque, I'm an attorney for the

11 Department and the Air Quality Division.

12 For this Item of the Agenda I'll discuss

13 the Department's proposed revision to OAC

14 Title 252 Chapter 100 Subchapter 8, Part

15 11.

16 The Council first approved this

17 proposal at its last meeting on January 18,

18 2006 and the amendment was recommended to

19 the Environmental Quality Board. However,

20 between that time, errors were found in the

21 proposed amendment that necessitated its

22 return by the Board to the Council for

23 correction.

24 The rule as proposed today corrects

25 the identified problems.

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1 recommend these changes to the

2 Environmental Quality Board for adoption

3 both as a permanent rule and emergency rule

4 so that the rule can become effective this

5 calendar year.

6 MS. BOTCHLET-SMITH: Do we have

7 any questions from the Council?

8 MR. PURKAPLE: I noticed that the

9 Environmental Quality Board, they canceled

10 their June meeting, correct?

11 Will that effect this process?

12 MR. PAQUE: Well, that's one of

13 the reasons why we're asking you all to

14 approve it by emergency so then when they

15 meet in August we can take it before the

16 Board at their August Meeting. It will go

17 into effect then, 45 days after that time.

18 It is also why we changed the due dates

19 back from December 1st to March 31st of

20 next year to allow a little bit more time.

21 MR. PURKAPLE: I have a question.

22 In 100-8-73(a)(1), refers to a single

23 source and (a)(2), first with a source.

24 Are those supposed to be the same?

25 MR. PAQUE: Let me grab my notes

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1 here. I think we could rectify that  
 2 language with a source. I think it s  
 3 supposed to be -- it should be the same.  
 4 We could do single source or a source.  
 5 MR. PURKAPLE: The second  
 6 question. In 100-8-75(c)(1) and (2) where  
 7 it talks about the Application for a Waiver  
 8 and Exemption, date-wise it needs to go in  
 9 by, what is it, December 1st? And I guess  
 10 with the timing, suppose a source makes the  
 11 Application but it s denied and the denial  
 12 is opposed to March 30, 2007. It seems  
 13 like that puts the source in an odd  
 14 position relative to the rule because it  
 15 seems to me March 30, 2007 (inaudible)  
 16 determination or Application in their hand.  
 17 MR. PAQUE: You re saying that if  
 18 they turn in an Application for Exemption  
 19 or Waiver, the Department or EPA disagrees  
 20 --  
 21 (Talking over each other).  
 22 MR. PAQUE: We had talked about  
 23 that and I thought we were confident that  
 24 we had an answer before March 30th.  
 25 MS. BOTCHELT-SMITH: Phillip,

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1 on EPA to give an answer -- to give some  
 2 sort of a permit and exemption. It would  
 3 work similar if somebody had their Title V  
 4 now that the EPA (inaudible due to noise).  
 5 MR. TERRILL: But there s not an  
 6 enforcement mechanism in any of this  
 7 though. Really. I mean that s kind of  
 8 what s interesting about this is they are a  
 9 lot of deadlines in there but there s  
 10 nothing that indicates what s going to  
 11 happen if you miss them. And so my  
 12 position is we re going to do the best we  
 13 can with what we got and hope we get the  
 14 time frames, and if we don t, we ll do the  
 15 best we can with what we got.  
 16 MR. PURKAPLE: I guess my final  
 17 question is, is the model protocol all  
 18 worked out? The bugs are fixed and it s --  
 19 MR. FIELDER: Yeah, I think the  
 20 model -- the modeling protocols are done.  
 21 MR. PURKAPLE: Thank you.  
 22 MR. BRANECKY: Matt, you said  
 23 there were comments from Georgia Pacific?  
 24 MR. PAQUE: Yeah.  
 25 MR. BRANECKY: I haven t -- I

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1 could you step down to the podium to answer  
 2 that?  
 3 MR. FIELDER: Phillip Fielder  
 4 with the Permit Section. It s our  
 5 anticipation that we ll start actually  
 6 reviewing some of this stuff prior to that  
 7 deadline date and that we will try to move  
 8 forward as quickly as possible with the  
 9 understanding that could be an issue. And  
 10 so we re hoping to get any determinations  
 11 done in advance of that deadline so that  
 12 someone could start working on (inaudible)  
 13 determination, if there is a problem.  
 14 MR. PURKAPLE: I don t think my  
 15 concern is as much with the DEQ as it would  
 16 be if you chose a route to the EPA.  
 17 MR. FIELDER: That s kind of out  
 18 of our hands. We re not quite sure about  
 19 that. We re not expecting very many waiver  
 20 procedures or proposals but that s a cause  
 21 of concern, agreed.  
 22 MR. PURKAPLE: So what position  
 23 would a source be in, then, having missed  
 24 the March 30, 2007 deadline?  
 25 MR. PAQUE: I think we re waiting

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1 don t see those in my packet.  
 2 Did I miss it? Where is it?.  
 3 MS. WORTHEN: In the separate  
 4 stuff they gave us.  
 5 MR. PAQUE: It was provided  
 6 today.  
 7 MR. BRANECKY: Oh, okay.  
 8 MS. WORTHEN: In the packets  
 9 provided today.  
 10 (Multiple inaudible conversations)  
 11 MR. PAQUE: It s in the summary  
 12 documents.  
 13 MR. BRANECKY: Thank you.  
 14 MS. BOTCHLET-SMITH: Are there  
 15 any other questions from the Council? I  
 16 didn t have any indication that anyone from  
 17 the public was wanting to speak but if so,  
 18 signify me now and I ll call upon you. I  
 19 don t see anyone from the public wishing to  
 20 question this or to comment at this time,  
 21 Sharon. So, if we re through with the  
 22 Council.  
 23 MS. MYERS: Matt, what is the  
 24 Staff s recommendation?  
 25 MS. BOTCHLET-SMITH: Matt, did

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1 you give a recommendation on this rule?  
 2 MR. PAQUE: Yes. We recommend  
 3 that it be approved as both a permanent and  
 4 an emergency rule.  
 5 MS. MYERS: Okay. We need a  
 6 Motion from the Council, please.  
 7 MR. TERRILL: Matt, they need to  
 8 do that separately, don t they?  
 9 MR. PAQUE: Yes.  
 10 MR. TERRILL: They need to make a  
 11 --  
 12 MR. PAQUE: Both as a  
 13 recommendation to the Board as a permanent  
 14 rule and then a second recommendation to  
 15 the Board as an emergency rule. And we  
 16 hope that we won t be bringing it back  
 17 anymore.  
 18 MR. BRANECKY: I move that we  
 19 pass this rule as a permanent rule and send  
 20 it to the Board for approval.  
 21 MS. MYERS: We have a Motion --  
 22 MS. WORTHEN: Second.  
 23 MS. MYERS: We have a Motion and  
 24 a second. Myrna, would you call the roll,  
 25 please.

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1 MS. BRUCE: Should we do this  
 2 separately?  
 3 MS. MYERS: Two separate Motions.  
 4 MS. BRUCE: Okay. To send --  
 5 MS. MYERS: The rule is  
 6 permanent.  
 7 MS. BRUCE: -- to the Board as a  
 8 permanent rule.  
 9 MS. MYERS: Permanent rule, yes.  
 10 MR. PAQUE: Did you want to make  
 11 that one change that Jerry had?  
 12 MR. PURKAPLE: For clarification  
 13 on 100-8-73(a)(1), (a)(2)?  
 14 MS. MYERS: Okay. Robert s Rule  
 15 of Order. We have a Motion and a second.  
 16 Do we need to amend the Motion?  
 17 MS. BOTCHLET-SMITH: He can amend  
 18 his Motion.  
 19 MR. BRANECKY: What was that  
 20 again?  
 21 MR. PURKAPLE: 100-8-73(a)(1) and  
 22 (a)(2), single source, a source.  
 23 MR. BRANECKY: Okay. I ll amend  
 24 my Motion that we send this rule as a  
 25 permanent rule to the Board with a change

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1 as suggested by Mr. Purkaple in 100-8-  
 2 73(a)(1) that we strike that word single  
 3 out of that sentence.  
 4 MS. WORTHEN: Second.  
 5 MS. MYERS: Okay. We now have a  
 6 Motion and a second to send this as a  
 7 permanent rule to the Board with one change  
 8 in the wording. Now can we call roll?  
 9 MS. BRUCE: Gary Martin.  
 10 MR. MARTIN: Yes.  
 11 MS. BRUCE: Jerry Purkaple.  
 12 MR. PURKAPLE: Yes.  
 13 MS. BRUCE: Laura Worthen.  
 14 MS. WORTHEN: Yes.  
 15 MS. BRUCE: David Branecky.  
 16 MR. BRANECKY: Yes.  
 17 MS. BRUCE: Bob Lynch.  
 18 DR. LYNCH: Yes.  
 19 MS. BRUCE: Bob Curtis.  
 20 MR. CURTIS: Yes.  
 21 MS. BRUCE: Rick Freeman.  
 22 MR. TREEMAN: Yes.  
 23 MS. BRUCE: Sharon Myers.  
 24 MS. MYERS: Yes.  
 25 MS. BRUCE: Motion passed.

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1 MS. MYERS: And now we need a  
 2 Motion to send this as an emergency rule so  
 3 that it will go into effect before the next  
 4 Board Meeting.  
 5 MR. TERRILL: After the Board  
 6 Meeting.  
 7 MS. MYERS: After the Board  
 8 Meeting. Yes.  
 9 MR. TERRILL: 45 days after.  
 10 MS. MYERS: 45 days after the  
 11 Board Meeting.  
 12 MR. CURTIS: So moved. With the  
 13 changes.  
 14 MS. MYERS: We have a Motion. Do  
 15 we have a second?  
 16 MR. PURKAPLE: Second.  
 17 MS. MYERS: We have a Motion and  
 18 a second to pass this as an emergency rule  
 19 with the specified change in it.  
 20 Myrna, could you please call the  
 21 roll.  
 22 MS. BRUCE: Gary Martin.  
 23 MR. MARTIN: Yes.  
 24 MS. BRUCE: Jerry Purkaple.  
 25 MR. PURKAPLE: Yes.

1 MS. BRUCE: Laura Worthen.  
2 MS. WORTHEN: Yes.  
3 MS. BRUCE: David Branecky.  
4 MR. BRANECKY: Yes.  
5 MS. BRUCE: Bob Lynch.  
6 DR. LYNCH: Yes.  
7 MS. BRUCE: Bob Curtis.  
8 MR. CURTIS: Yes.  
9 MS. BRUCE: Rick Treeman.  
10 MR. TREEMAN: Yes.  
11 MS. BRUCE: Sharon Myers.  
12 MS. MYERS: Yes.  
13 MS. BRUCE: Motion passed.  
14 (End of Proceedings)

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<p style="text-align: center;"><b>-1-</b></p> <p>1 [5] 5:22 6:6 11:13,21 12:2 100 [8] 3:14 100-8 [1] 12:1 100-8-73 [3] 5:22 11:13 11:21 100-8-75 [1] 6:6 11 [2] 3:5,15 15 [1] 4:19 18 [2] 3:17 4:8 19 [1] 1:13 1st [2] 5:19 6:9</p> <hr/> <p style="text-align: center;"><b>-2-</b></p> <p>2 [5] 4:10 5:23 6:6 11:13 11:22 2006 [4] 1:13 3:18 4:9,19 2007 [3] 6:12,15 7:24 250 [1] 4:4 252 [1] 3:14 252:100-8 [1] 3:4 252:100-8-73 [2] 4:2 4:10</p> <hr/> <p style="text-align: center;"><b>-3-</b></p> <p>30 [3] 6:12,15 7:24 30th [1] 6:24 31st [1] 5:19</p> <hr/> <p style="text-align: center;"><b>-4-</b></p> <p>4 [1] 4:2 45 [3] 5:17 13:9,10 4B [1] 1:12</p> <hr/> <p style="text-align: center;"><b>-6-</b></p> <p>6 [1] 4:24</p> <hr/> <p style="text-align: center;"><b>-7-</b></p> <p>70 [1] 3:5 73 [1] 12:2</p> <hr/> <p style="text-align: center;"><b>-8-</b></p> <p>8 [1] 3:14</p> <hr/> <p style="text-align: center;"><b>-9-</b></p> <p>9:30 [1] 1:13</p> <hr/> <p style="text-align: center;"><b>-A-</b></p> <p>addition [1] 4:21 adoption [1] 5:2 advance [1] 7:11 ADVISORY [1] 1:11 again [1] 11:20 Agenda [2] 3:4,12</p>	<p>agreed [1] 7:21 Air [2] 1:11 3:11 allow [1] 5:20 amend [3] 11:16,17,23 amendment [2] 3:18,21 answer [3] 6:24 7:1 8:1 anticipation [1] 7:5 Application [4] 6:7,11 6:16,18 approval [1] 10:20 approve [1] 5:14 approved [2] 3:16 10:3 APRIL [1] 1:13 AQD [3] 2:17,19,20 attorney [1] 3:10 August [2] 5:15,16</p> <hr/> <p style="text-align: center;"><b>-B-</b></p> <p>BART [2] 4:15,16 based [1] 4:12 become [1] 5:4 best [2] 8:12,15 between [1] 3:20 BEVERLY [1] 2:19 bit [1] 5:20 Board [15] 3:19,22 5:2,9 5:16 10:13,15,20 11:7,25 12:7 13:4,5,7,11 Bob [6] 2:5,6 12:17,19 14:5,7 BOTCHELT-SMITH [1] 6:25 BOTCHLET-SMITH [6] 2:19 3:3 5:6 9:14,25 11:17 Braneky [12] 2:4 8:22 8:25 9:7,13 10:18 11:19 11:23 12:15,16 14:3,4 bringing [1] 10:16 BRUCE [22] 2:15 11:1,4 11:7 12:9,11,13,15,17,19 12:21,23,25 13:22,24 14:1 14:3,5,7,9,11,13 bugs [1] 8:18</p> <hr/> <p style="text-align: center;"><b>-C-</b></p> <p>c [3] 4:2,10 6:6 calendar [1] 5:5 canceled [1] 5:9 Chair [2] 2:3 3:8 change [4] 11:11,25 12:7 13:19 changed [2] 4:7 5:18 changes [4] 4:8,17 5:1 13:13 changing [1] 4:14 Chapter [1] 3:14 chose [1] 7:16 clarification [1] 11:12 comment [1] 9:20</p>	<p>comments [4] 4:19,21 4:23 8:23 concern [2] 7:15,21 confident [1] 6:23 conversations [1] 9:10 correct [1] 5:10 correction [1] 3:23 corrects [1] 3:24 Council [10] 1:11 2:2 3:9 3:16,22 4:25 5:7 9:15,22 10:6 Curtis [6] 2:5 12:19,20 13:12 14:7,8</p> <hr/> <p style="text-align: center;"><b>-D-</b></p> <p>date [1] 7:7 date-wise [1] 6:8 dates [2] 4:14 5:18 David [3] 2:4 12:15 14:3 days [3] 5:17 13:9,10 deadline [3] 7:7,11,24 deadlines [1] 8:9 December [2] 5:19 6:9 denial [1] 6:11 denied [1] 6:11 Department [6] 1:3 3:11 3:13 4:13,22 6:19 DEQ [1] 7:15 determination [2] 6:16 7:13 determinations [1] 7:10 didn [1] 9:16 DIRECTOR [1] 2:16 disagrees [1] 6:19 discuss [1] 3:12 Division [2] 2:16 3:11 documents [1] 9:12 don [6] 2:9 7:14 8:14 9:1 9:19 10:8 done [2] 7:11 8:20 down [1] 7:1 DR [3] 2:17 12:18 14:6 due [2] 5:18 8:4</p> <hr/> <p style="text-align: center;"><b>-E-</b></p> <p>EDDIE [1] 2:16 effect [3] 5:11,17 13:3 effective [1] 5:4 emergency [6] 5:3,14 10:4,15 13:2,18 emit [1] 4:13 End [1] 14:14 enforcement [1] 8:6 Environmental [4] 1:3 3:19 5:2,9 EPA [5] 4:24 6:19 7:16 8:1,4 errors [1] 3:20 exemption [5] 4:3,6 6:8</p>	<p>6:18 8:2 exemptions [1] 4:16 expecting [1] 7:19</p> <hr/> <p style="text-align: center;"><b>-F-</b></p> <p>facility [1] 4:12 Fielder [5] 2:20 7:3,3,17 8:19 final [1] 8:16 first [2] 3:16 5:23 fixed [1] 8:18 forward [1] 7:8 found [1] 3:20 frames [1] 8:14</p> <hr/> <p style="text-align: center;"><b>-G-</b></p> <p>Gary [3] 2:7 12:9 13:22 gentlemen [1] 3:9 Georgia [2] 4:23 8:23 grab [1] 5:25 guess [2] 6:9 8:16</p> <hr/> <p style="text-align: center;"><b>-H-</b></p> <p>hand [1] 6:16 hands [1] 7:18 haven [1] 8:25 HELD [1] 1:13 hope [2] 8:13 10:16 hoping [1] 7:10</p> <hr/> <p style="text-align: center;"><b>-I-</b></p> <p>identified [1] 3:25 inaudible [4] 6:15 7:12 8:4 9:10 indicate [1] 4:11 indicates [1] 8:10 indication [1] 9:16 intent [1] 4:5 interesting [1] 8:8 issue [1] 7:9 Item [3] 1:12 3:4,12</p> <hr/> <p style="text-align: center;"><b>-J-</b></p> <p>January [2] 3:17 4:8 Jerry [4] 2:8 11:11 12:11 13:24 JOYCE [1] 2:17 June [1] 5:10</p> <hr/> <p style="text-align: center;"><b>-K-</b></p> <p>Kaufman [1] 4:23 kind [2] 7:17 8:7</p> <hr/> <p style="text-align: center;"><b>-L-</b></p> <p>ladies [1] 3:9 language [2] 4:6 6:2 last [1] 3:17</p>	<p>Laura [3] 2:11 12:13 14:1 LEGAL [1] 2:18 less [1] 4:4 limited [1] 4:3 II [5] 3:12 7:5 8:14 9:18 11:23 Lynch [5] 2:6 12:17,18 14:5,6</p> <hr/> <p style="text-align: center;"><b>-M-</b></p> <p>m [2] 1:13 3:10 Madam [1] 3:8 makes [1] 6:10 March [6] 4:19 5:19 6:12 6:15,24 7:24 Martin [5] 2:7 12:9,10 13:22,23 Matt [7] 2:18 3:6,10 8:22 9:23,25 10:7 mean [1] 8:7 mechanism [1] 8:6 meet [1] 5:15 meeting [7] 3:17 5:10,16 13:4,6,8,11 MEMBER [7] 2:5,6,7,8 2:9,10,11 members 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**MINUTES  
AIR QUALITY COUNCIL  
April 19, 2006  
OSU-Tulsa Campus, 700 N. Greenwood  
Tulsa, Oklahoma**

AQC Approved  
July 19, 2006

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. April 19, 2006 in Room 150 at OSU-Tulsa Campus, 700 N. Greenwood, Tulsa, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 5, 2005. Agendas were posted on the entrance doors of the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting.

Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101 - 2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Sharon Myers, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

<p><b>MEMBERS PRESENT</b> Sharon Myers David Branecky Bob Curtis Bob Lynch Gary Martin Jerry Purkøple Rick Treeman Laura Worthen</p> <p><b>MEMBERS ABSENT</b> Don Smith</p> <p><b>OTHERS PRESENT</b> Christy Myers, Court Reporter</p>	<p><b>DEQ STAFF PRESENT</b> Eddie Tenill Beverly Botchlet-Smith Scott Thomas Joyce Sheedy Max Price Heather Bragg Morris Moffett Kendal Stegmann Matt Paque</p>	<p><b>DEQ STAFF PRESENT</b> Rhonda Jeffries Dawson Lasseter Philip Fielder Nancy Marshment Myrna Bruce</p>
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Transcripts and Attendance Sheet are attached as an official part of these Minutes

**Approval of Minutes** Ms. Myers called for approval of the January 18, 2006 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Treeman made the motion with Mr. Curtis making the second. Roll call as follows with motion passing.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkøple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Abstain
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]** Mr. Morris Moffett advised that the amendment to OAC 252:100-5-2.1(b)(3) concerns the content of the Emission Inventory and will clarify the requirement

to provide a written explanation when yearly emission changes are in excess of 30 percent. Comments were received from the Council then from OG&E Energy Corp. and Trinity Consultants. The motion made by Mr. Treeman was to return the proposal to staff for new language which would include a 30-day extension. Mr. Curtis made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-8 Permits for Part 70 Sources, Part 11 [NEW]** Mr. Matt Paque advised that a new Part 11 would incorporate the federal Best Available Retrofit Technology (BART) requirements which are part of the Regional Haze SIP. Mr. Paque pointed out changes that had been made to the rule after Council's approval at its January 18, 2006 meeting. Staff's recommendation was to forward this rulemaking to the Environmental Quality Board for permanent adoption. He added that the recommendation also would be for emergency approval due to the timing and the fact that the Board will not be meeting in June. Mr. Paque entered into the record comments received after preparation of the Agenda Packet, from George Pacific and EPA. Following questions by the Council, Mr. Paque pointed out that there would need for motions and votes for both permanent and for emergency adoption. Mr. Branecky made motion for permanent adoption with the second by Ms. Worthen. Following discussion, Ms. Myers called to amend the motion to add Mr. Purkapple's concern for clarification in 252-100-8-73-(a)(1) and (a)(2). Mr. Branecky amended his motion and Ms. Worthen made that second with roll call for the amended motion for permanent adoption.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

Ms. Myers called for a motion for approval to forward to the Board for emergency adoption. Mr. Curtis made the motion and Mr. Purkapple made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-5 Registration, Emission Inventory and Annual Operation Fees [AMENDED]**

**OAC 252:100-7 Permits for Minor Facilities [AMENDED]**

**OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED]**

**OAC 252:100-23 Control of Emissions From Cotton Gins [AMENDED]**

**Appendix P Regulated Air Pollutants [NEW]**

Mr. Max Price identified several changes for Subchapters 5, 7, 9, 23, and Appendix P which would make the rules more user-friendly. Proposed amendments would add a new definition for the term "Regulated Air Pollutants"; amend the terms "Actual emissions"; "Allowable emissions" and "Regulated pollutant (for fee calculation)"; add a new

definition for "Gross particulate matter" (GPM) which replaces the term "TSP". Mr. Price related that staff would like to continue the proposal to Council's next meeting to allow time for further public comment. Mr. Treeman made the motion to continue and Mr. Curtis made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-17-61 Incinerators [AMENDED]** Dr. Joyce Sheedy advised that proposal would amend Section 61 to update the incorporation by reference for commercial and industrial solid waste incineration (CISWI) units. She explained the extensive changes that EPA had made to the language in the definition and that the final revision was published in the Federal Register. Dr. Sheedy conveyed that notice of the proposed changes was published in the Oklahoma Register and that no comments had been received. Staff's recommendation was to forward to the Environmental Quality Board for permanent adoption. Following discussion, Mr. Branecky made motion to forward this incorporation by reference to the Board. Mr. Purkapple made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-17 Incinerators Part 11 Other Solid Waste Incineration Units [NEW]** Ms. Heather Bragg stated that the proposal allows for a new Part 11 for Other Solid Waste Incineration Units (OSWI) to establish state emission standards and other enforceable requirements for existing OSWI. She added that it is necessary to promulgate new rules to establish an enforcement mechanism required by the State 111(d) Plan. Ms. Myers pointed out that staff's recommendation was to continue and called for a motion. Mr. Curtis made motion to continue and Mr. Treeman made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**OAC 252:100-44 Control of Mercury Emissions From Coal Fired Electric Steam Generating Units [NEW]** Mr. Morris Moffett related the need for a new subchapter due to EPA's issuance of the Clean Air Mercury Rule to permanently cap and reduce mercury emissions from coal-fired power plants. He described three proposal options for discussion adding that the Department recommends that the rulemaking be continued to allow for more public comment.

Option 1: Incorporation by reference of the federal Clean Air Mercury Rule (CAMR) issued in May 2005.

Option 2: Adoption of the model rule issued in November 2005 by the State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO).

Option 3: A rewrite of the federal CAMR by the Department with state-developed timelines and requirements.

Along with Council's questions and comments, public comments were received from Ms. Julia Bevers on behalf of the electric utility group that will be affected by this rule and from Mr. Howard Ground, Public Service Company of Oklahoma. Ms. Myers called for motion to continue to Council's next meeting. Mr. Purkaple made the motion and Mr. Curtis made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

#### **Appendix H. De Minimis Facilities**

#### **Appendix I. Insignificant Activities (Registration) List**

#### **Appendix J. Trivial Activities (De Minimis) List**

Dr. Joyce Sheedy advised that the proposal would reformat each Appendix to make it easier to use and update activities currently in all three lists. She explained that it had been anticipated that when these Appendices were first compiled and made part of Chapter 100 they would be revisited and appropriate changes would be proposed based on the Staff's experience in using the lists and on more accurate emission factors and data if available. Dr. Sheedy mentioned that Appendices cannot be amended; therefore upon approval of the new lists, Staff will also request that the outdated Appendices be revoked. Oral comments were heard from ONEOK and AES Shady Point; and Dr. Sheedy pointed out that written comments had been received from EPA and OIPA. After staff fielded questions, Ms. Myers called for a motion to continue the hearing to Council's July meeting. Ms. Worthen made the motion and Mr. Curtis made the second.

Gary Martin	Yes	Bob Lynch	Yes
Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Rick Treeman	Yes
David Branecky	Yes	Sharon Myers	Yes

**Division Director's Report** Mr. Eddie Terrill discussed planned topics for the June 22 EFO meeting and invited input for topics from interested parties. He talked about the ozone season stating that the kickoff would be in Tulsa in mid-May. He also mentioned that staff is looking into a Smoke Management Plan.

**New Business** None.

**Adjournment** Ms. Myers adjourned the meeting at 11:10 a.m.