

**MINUTES**  
**AIR QUALITY COUNCIL**  
**April 20, 2005**  
**OSU Tulsa Campus**  
**700 North Greenwood**  
**Tulsa Oklahoma**

EQB June 21, 2005  
AQC Approved July 20, 2005

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. April 20, 2005 in North Hall 150, OSU Tulsa Campus, 700 North 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 10, 2004 and amended on January 27, 2005. Agendas were posted on the entrance doors at the meeting facility in Tulsa 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.

Mr. Eddie Terrill recognized Mr. Bill Breisch for his 33 years serving the Council and welcomed Ms. Laura Worthen to the Council.

**MEMBERS PRESENT**

Sharon Myers  
David Branecky  
Bob Lynch  
Gary Martin  
Don Smith  
Joel Wilson  
Laura Worthen

**MEMBERS ABSENT**

Bob Curtis  
Rick Treeman  
Vacancy

**OTHERS PRESENT**

Bill Breisch  
Jennifer Galvin  
Brita Cantrell

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Joyce Sheedy  
Pat Sullivan  
Cheryl Bradley  
Randy Ward  
Lisa Donovan  
Matt Paque  
Dawson Lasseter  
Rhonda Jeffries  
Myrna Bruce

Sign-in sheet is attached as an official part of these Minutes

**Approval of Minutes** Ms. Myers called for approval of the January 19, 2005 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Martin made the motion with Mr. Branecky making the second.

<b>Roll call</b>			
David Branecky	Yes	Don Smith	Yes
Bob Lynch	Yes	Joel Wilson	Abstain
Gary Martin	Yes	Sharon Myers	Yes
Laura Worthen	Yes	<b>Motion carried</b>	

**Finance Committee Report** Ms. Sharon Myers advised that the Council’s Finance Committee had met with the Air Quality Division to discuss and try to understand the state accounting system and how the Division disseminates Title V / Non Title V monies. Ms. Beverly Botchlet-Smith provided input and along with Mr. Terrill, answered questions from the Council and the public.

*See transcript pages 8 - 25*

- OAC 252:100-5 Registration, Emission Inventory and Annual Operating Fees**
- OAC 252:100-41 Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [AMENDED]**
- 252:100-42 Control of Toxic Air Contaminants [NEW]**
- 252:100 Appendix O. Toxic Air Contaminants (TAC) Maximum Acceptable Ambient Concentrations (MAAC) [NEW]**

Ms. Botchlet-Smith convened the hearing and called upon Dr. Joyce Sheedy who stated that proposed revisions to Subchapter 5 would increase fees to provide funds for the air toxics program located in a new Subchapter 42. Dr. Sheedy also pointed out changes in the Definitions section and language modifications in proposed areas.

*(See transcript pages 27-33)*

Ms. Lisa Donovan set forth the proposed revisions in Subchapters 41 and the new proposed Subchapter 42. She pointed out language that would be included in Subchapter 41 that would only remain effective if Subchapter 42 does not supersede it. Ms. Donovan related that if the proposed Subchapter 42 is not approved, or if new funding is not provided, the Department would maintain the toxics program as it currently exists in Subchapter 41. She entered into the record recent letters of comments received from EPA and OIPA adding that a complete list of the comments received are provided on the DEQ website. Questions and comments were fielded by Ms. Donovan and Mr. Terrill.

*(See transcript pages 33- 64)*

Ms. Botchlet-Smith called upon Ms. Cheryl Bradley who provided a PowerPoint presentation outlining the list of toxic air contaminants located in the new Appendix O which addressed comments received from previous meetings. Ms. Bradley and Mr. Terrill answered questions regarding the air toxics program. Ms. Bradley stated that staff recommendation that Council vote to forward to the Environmental Quality Board for permanent adoption amendments to Subchapters 5, 41 (including the latest changes recommended), Subchapter 42 and Appendix O as one package; or the separation of Subchapter 5 with Subchapters 41 and 42 and Appendix O remaining as one package for consideration. Public comments were made by: Ms. Nadine Barton, CASE; Ms. Angie

Burkhalter, OIPA; Ms. Jennifer Galvin, ConocoPhillips; Bud Ground, PSO; Mr. Joe Cowan, USA Pryor Cement; and Thelma Norman, American Airlines.

*(See transcript pages 64 - 143)*

Following discussion and comments, Mr. Branecky made motion to continue SC 5 to the next meeting and adopt SC 41, 42 and Appendix O with the changes recommended by staff, with the understanding that DEQ will provide Council with a report on the effectiveness of the rule no later than June of 2007. Mr. Don Smith made the second. Following discussion, Mr. Branecky declined his motion and made the same motion adding direction to staff for an annual review of the rule no later than June 2007 and annually thereafter. Mr. Smith made the second. Ms. Bruce called roll.

**Roll call**

David Branecky	Yes	Don Smith	Yes
Bob Lynch	Yes	Joel Wilson	No
Gary Martin	Yes	Sharon Myers	Yes
Laura Worthen	Yes	<b>Motion carried</b>	

*(See transcript pages 143 - 151)*

**Division Director's Report** Mr. Eddie Terrill introduced Matt Paque, DEQ Legal, who presented the Council with the scope of anticipated changes to the agency's New Source Review Program. The Director advised that the annual EFO meeting will be in June and will include discussions on NSR, Regional Haze, and Mercury. He also discussed ozone season and legislative issues.

**New Business** - None

**Adjournment** – The meeting adjourned at 12:30 pm. The next regular meeting is scheduled for July 20, 2005 at the DEQ Multipurpose Room, Oklahoma City.

**A copy of the hearing transcript and the sign in sheet are attached and made an official part of these Minutes.**

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
OF PUBLIC HEARING ON ITEM NOS. 1-5  
OAC 252:100-41  
CONTROL OF EMISSION OF HAZARDOUS AIR  
POLLUTANTS AND TOXIC AIR CONTAMINANTS  
[AMENDED]  
OAC 252:100-42  
CONTROL OF TOXIC AIR CONTAMINANTS [NEW]  
OAC 252:100 APPENDIX O  
TOXIC AIR CONTAMINANTS (TAC) MAXIMUM  
ACCEPTABLE AMBIENT CONCENTRATIONS  
(MAAC)[NEW]  
HELD ON APRIL 20, 2005, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

\* \* \* \* \*

REPORTED BY: Christy A. Myers, CSR

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## MEMBERS OF THE COUNCIL

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4 DAVID BRANECKY -- MEMBER

5 BOB LYNCH - VICE-CHAIR

6 GARY MARTIN - MEMBER

7 SHARON MYERS - CHAIR

8 DON SMITH - MEMBER

9 RICK TREEMAN - MEMBER

10 JOEL WILSON - MEMBER

11 TODD CURTIS - MEMBER, ABSENT

12 LAURA WORTHEN - MEMBER

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## STAFF MEMBERS

14 MYRNA BRUCE - SECRETARY

15 EDDIE TERRILL - DIVISION DIRECTOR

16 JOYCE SHEEDY -- AQD

17 MATT PAQUE -- LEGAL

18 LISA DONOVAN - AQD

19 BEVERLY BOTCHLET--SMITH - AQD

20 CHERYL BRADLEY - AQD

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## PROCEEDINGS

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MS. MYERS: Let's call the  
meeting to order, please. Myrna.

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MS. BRUCE: David Branecky.

6

MR. BRANECKY: Here.

7

MS. BRUCE: Todd Curtis, absent.

8

Bob Lynch.

9

DR. LYNCH: Here.

10

MS. BRUCE: Gary Martin.

11

MR. MARTIN: Here.

12

MS. BRUCE: Sharon Myers.

13

MS. MYERS: Here.

14

MS. BRUCE: Don Smith.

15

MR. SMITH: Here.

16

MS. BRUCE: Rick Treeman is

17

absent. Joel Wilson.

18

MR. WILSON: Here.

19

MS. BRUCE: Laura Worthen.

20

MS. WORTHEN: Here.

21

MS. BRUCE: We do have a quorum.

22

MS. MYERS: Okay. The next item

23

on the agenda is Approval of the Minutes.

24

Is there any discussion about that?

25

MR. MARTIN: Move approval.



1                   MS. MYERS:    We have a motion to  
2 approve.    Do we have a second?  
3                   DR. LYNCH:    I second.  
4                   MS. BRUCE:    David Branecky.  
5                   MR. BRANECKY:    Yes.  
6                   MS. BRUCE:    Bob Lynch.  
7                   DR. LYNCH:    Yes.  
8                   MS. BRUCE:    Gary Martin.  
9                   MR. MARTIN:    Yes.  
10                  MS. BRUCE:    Laura Worthen.  
11                  MS. WORTHEN:    Yes.  
12                  MS. BRUCE:    Don Smith.  
13                  MR. SMITH:    Yes.  
14                  MS. BRUCE:    Joel Wilson.  
15                  MR. WILSON:    Abstain.  
16                  MS. BRUCE:    And Sharon Myers.  
17                  MS. MYERS:    Yes.  
18                  MS. BRUCE:    Motion passed.  
19                  MS. MYERS:    The next item on the  
20 agenda is the Resolution in Recognition of  
21 Mr. Bill Breisch for all the years of  
22 service.    And I'm going to read that.  
23                  The Air Quality Council Resolution.  
24 Whereas, Mr. William B. Breisch was  
25 appointed to the Oklahoma Air Quality



1 Council in 1972.

2           And whereas, Mr. William B. Breisch  
3 was a dedicated member of the Air Quality  
4 Council.

5           And whereas, Mr. William B. Breisch  
6 played an active part in the development of  
7 the rules and regulations that were passed  
8 by the Air Quality Council to promote clean  
9 air in Oklahoma.

10           And whereas, during his tenure as  
11 member of the Council, this body has met  
12 the legislative charter to attain and  
13 preserve clean air in Oklahoma.

14           Therefore, be it resolved that the  
15 Members of the Oklahoma Air Quality Council  
16 recognize and thank Mr. William B. Breisch  
17 for his years of service toward making  
18 Oklahoma a better place to live.

19           Bill.

20           MR. TERRILL: When Bill called me  
21 and told me he was going to be resigning  
22 from the Council, he said one of the things  
23 he didn't want to do is have a lot of  
24 presentations and a lot of whereas's and  
25 wherefore s and all that, so I told him



1 this morning we had four plaques for him,  
2 they all had that in there, but we would  
3 only read one of them, so it was kind of a  
4 compromise.

5           But I would just like to say that 33  
6 years in service like Bill's done is just  
7 pretty remarkable. I hate to say this, but  
8 I was still in high school when he came on  
9 the Board and the Council and I'm looking  
10 at retirement here in a few years, so  
11 that's how long he's taken up his time and  
12 provided his expertise and his guidance.  
13 He's seen a lot of changes over the last 30  
14 years and I think the Department and the  
15 Agency and Division have really made a lot  
16 of strides under the guidance of Mr.  
17 Breisch and those like him that have served  
18 on the Council and taken their time to be  
19 here. And I really appreciate him and I  
20 appreciate his guidance and his help.

21           When I came on board he was always  
22 willing to help and where it was justified  
23 he always supported us, but he always  
24 pointed out things that we could do better  
25 and that's what I kind of view the role of



1 the Council as being.

2 Bill, I'll miss you and we'll miss  
3 you. But we've got a few things for you,  
4 so I'm going to move around here.

5 This is from the Council and you can  
6 frame this or leave it in this handy little  
7 DEQ folder, whichever you prefer. We've  
8 got a thing to go on your desk. This is  
9 from the DEQ, Steve signed that, and that's  
10 to thank you for your service. And then  
11 we've got a little plaque here from the  
12 Council that you can mount on your wall,  
13 that's a pretty nice little memento there.  
14 Then we've got something from the  
15 Governor's office that s got a lot of  
16 wherefores and whereas, and we won't read  
17 those. But it's not much to show all the  
18 work you've done, but you really have our  
19 heartfelt thanks and we'll miss you. I  
20 appreciate your service.

21 (Applause)

22 MR. BREISCH: Thank you. Thank  
23 you all, very much. The Council is a bit  
24 different than when I started. I can  
25 remember then we were just getting our feet



1 on the ground and Dr. Ramel was our  
2 Chairman. He and several others were  
3 addicted, with a cigarette habit, and we  
4 sat in the Council meeting just fanning the  
5 air. But you wouldn't believe what's  
6 happened since then, but it's, you know,  
7 this is fine. But I've had -- the  
8 privilege of serving on the Council is  
9 thanks enough and I've enjoyed it. I'll  
10 miss you all. Thank you, again.

11 (Applause)

12 MS. MYERS: Okay. The next item  
13 on the agenda is the report from the  
14 Finance Committee. And several of us met  
15 with the Air Quality folks last week to try  
16 to get an understanding of what's going on  
17 with finances. I will tell you just up  
18 front that some of it's confusing. The  
19 state accounting system is not the easiest  
20 thing to work with to get the information  
21 that we ask for and that's been true for as  
22 long as I've worked with this.

23 There seems to be a shift and some  
24 of the actual time and effort devoted to  
25 Title V versus non-Title V and with that,



1 there's also some increases in some of the  
2 equipment, some of the travel and some  
3 other costs incurred. And at the end of  
4 the report -- does everybody have that.  
5 It's available.

6           Okay. Based on their calculations,  
7 there seems to be a shift in the deficit  
8 from non-Title V activities to Title V  
9 activities. I am going to let somebody who  
10 works with it a lot more closely than I do  
11 jump in here at this point and try to  
12 explain that, because I honestly can't.

13           MS. BOTCHLETT-SMITH: Basically  
14 what we're seeing is, we started what we  
15 call the regulatory oversight continuum  
16 several years ago, which allowed us and  
17 encouraged us to concentrate on areas where  
18 you would have the most likelihood of  
19 pollution occurring. And in doing that, we  
20 started to see our work shift more towards  
21 the Title V-type facilities and less work  
22 being done on the minor sources.

23           And this has been a gradual shift  
24 over several years and I think it's just  
25 now starting to really show up when we look



1 at our workload and our time and effort  
2 accounting.

3           Where we used to be in a split of  
4 about 70 percent of our work is Title V and  
5 30 percent was non-Title V or funded by  
6 state appropriations and the grant, we've  
7 now moved to where we're getting closer to  
8 a 75 -- well, a couple of years ago it was  
9 more like 75/25, but we kept operating as  
10 though it was 70/30. And this year it's  
11 really, when we started putting this report  
12 together for the Finance Committee, we  
13 discovered we're looking at more of an  
14 80/20 split. Where instead of 70 percent  
15 of our time going to Title V work,  
16 realistically, it's really more like 80  
17 percent of our time.

18           And this makes sense to us as we  
19 continued to make that shift, to  
20 concentrate more and more on those  
21 facilities, the larger facilities, both in  
22 permitting, we have a heavier workload  
23 there and in our enforcement and compliance  
24 area, the rules that we've developed along  
25 those lines, it's just been a shift that's



1 occurred across the division.

2           And as Sharon mentioned, it's not  
3 just the actual salaries and expenses of  
4 these people, but it kind of has a domino  
5 effect because, you know, then we talk  
6 about, well, when they're going to go out  
7 and do an inspection, well, they're going  
8 to a Title V facility. So more and more of  
9 our travel falls into that category, you  
10 know, our expenses that are associated with  
11 that, any equipment and supplies, it's just  
12 been a gradual shift.

13           And basically what we're seeing here  
14 is our -- at this point, our non-Title V  
15 portion of the program from our grants and  
16 state appropriations have been and are  
17 continuing to make up a deficit on the  
18 Title V side.

19           MR. TERRILL: Actually, Sharon  
20 was being very charitable in her  
21 description of our financial system and she  
22 probably forgot we were not on the record,  
23 but it's abysmal. I mean, it really -- we  
24 cannot tell where we are at any particular  
25 time. We've got a general idea, but just



1 the way that the state system is set up  
2 makes it very difficult without us --  
3 without finance folks stopping everything  
4 and truing everything up like we do when we  
5 do a fee case, to make it make sense out of  
6 it. And what we've seen, we've seen a flip  
7 from what we had three years ago, which we  
8 were running a deficit on the non-Title V  
9 side to a deficit on the Title V side. The  
10 problem with that is, perception-wise it  
11 looks bad because we've come and asked you  
12 all for a fee increase to pay for toxics  
13 that was going to hit the Title V folks and  
14 then, lo and behold, our paperwork shows  
15 we've got a Title V deficit. So I would be  
16 a lot more concerned about that if we were  
17 going to try and pass that fee today, but  
18 we're probably not and we would have to do  
19 a lot more work to true that up before we  
20 actually get it back to you all. I'm  
21 comfortable with the number, I'm just not  
22 comfortable with what we've got to show  
23 that the number is correct.

24 What does that really mean? I don't  
25 know what it really means, because



1 theoretically you're not supposed to spend  
2 Title V fees for non-Title V activities and  
3 vice-versa. Well for a number of years,  
4 the Title V program subsidized the non-  
5 Title V program because we had to get the  
6 work done and you do the work that comes  
7 through the door, whether it's Title V or  
8 non-Title V and however you get it paid for  
9 is fine.

10           That's kind of the way I look at  
11 this. But I don't know what EPA is going  
12 to say about it, because they've audited  
13 our Title V program twice and come back  
14 with no problem, but they never have really  
15 actually audited the money side of it.  
16 They may do that as part of our grant  
17 audit, I don't know. They're going to be  
18 in Friday, aren't they, Beverly, to start  
19 looking at our grant. That's really where  
20 the problem comes in, is if we can't show  
21 that we've -- we can't validate the work  
22 being done against the grant, since that's  
23 federal money, then you've got to be able  
24 to do that.

25           So at the end of the day, I don't



1 know exactly what all this will really  
2 mean. I've asked our folks, our managers  
3 to take a look at our time and efforts to  
4 make sure that it looks like we are still  
5 being accurate with how we're allocating  
6 our time and efforts and the work being  
7 done and to make sure that's right. And  
8 then if we, sometime probably in the fall  
9 or next year, we'll come back after the  
10 Legislature is over with and see if we get  
11 any money, appropriations-wise, to fund the  
12 program, we'll just see where we are.

13           But we're okay money-wise. It's  
14 just screwy with the way it's being split  
15 right now between Title V and non-Title V.  
16 But Sharon is right, it is difficult to  
17 understand and it's difficult for me to  
18 explain, because I don't deal on the  
19 financial side that much and you've got to  
20 deal with it all the time to really  
21 understand what's actually going on to make  
22 sense. All I know is we can pay our bills  
23 and pay our folks and we don't -- we're not  
24 running a negative balance at the end of  
25 the year. So I'm not too concerned about



1 the fact that Title V is not paying it's  
2 way at this point. I might be concerned  
3 about it in a year or two, but I don't  
4 really care.

5 MS. BOTCHLETT-SMITH: And one of  
6 the things that we are working with finance  
7 to do is to restructure this report that we  
8 give the Finance Committee each year, to  
9 where it's a little bit easier to  
10 understand. We work on this report on a  
11 calendar year because that's the way the  
12 Title V fees come in and we operate on  
13 fiscal year and it -- it's a cash account  
14 and the way we're looking at it, it just  
15 makes it confusing. So we are going to be  
16 working with the Finance Committee to try  
17 to improve the appearance of that report  
18 and maybe give you a little bit more  
19 information.

20 MS. MYERS: Meaningful.

21 MS. BOTCHLETT-SMITH: More  
22 meaningful information and we shifted to do  
23 this a little earlier in the year, so I  
24 can't really give you any information about  
25 where we're headed with our budget. We



1 just started working on our budget for FY-  
2 06 and we're -- it's just so preliminary we  
3 don't have enough information together, and  
4 won't until the end of June.

5 MS. MYERS: Thank you, Beverly.

6 Now I'm going to turn it over to you.

7 MR. TERRILL: Does anybody have  
8 any questions before we go into -- yes,  
9 Bud.

10 MR. GROUND: Actually, my  
11 question -- and Beverly, you kind of  
12 started (inaudible), does this have  
13 anything to do -- the deficit on Title V,  
14 does this have anything to do with the way  
15 that you bill in certain -- you know, the  
16 large Title V's that you don't want them  
17 showing up, like during the legislative  
18 session so that you don't have money left  
19 over in the accounts? I mean --

20 MS. BOTCHLETT-SMITH: Because it  
21 is a cash account, it can affect what it  
22 shows. We do this report at the end of  
23 December. Whatever it is, at the end of  
24 December, December 31st, that's what it is.  
25 And there is a possibility that we have



1 sent bills out in December that don't show  
2 up on this report that actually get  
3 collected, they just get collected on next  
4 year's report, that we haven't seen yet.  
5 But the money comes in in January.

6 MR. GROUND: So it takes the  
7 fiscal year to really look at the whole  
8 thing; is that what you're really saying,  
9 that you're not really getting a good  
10 report on it?

11 MS. BOTCHLETT-SMITH: It's  
12 because we get fees on a calendar year and  
13 our budget is on a fiscal year and that  
14 overlaps and that, I think, is what is  
15 making it so confusing.

16 MR. TERRILL: Yes, we don't get a  
17 checkbook view of what we've got. We don't  
18 get anything like that. They can't tell me  
19 how much money I've actually got in a  
20 particular account, truly have got, without  
21 stopping everything and going back and what  
22 we call truing it all up. That's the  
23 reason I'm not too concerned about the fact  
24 we've shifted one way or the other.

25 Now, if you think about it, we will



1 eventually have to address this issue at  
2 some point, about running a deficit on the  
3 Title V side, if we continue to see this  
4 trend of shifting the work more towards  
5 Title V and away from non-Title V. And we  
6 knew that would happen as we implemented  
7 the permit exempt, and got those out. But  
8 I'm not sure if we're seeing that yet.  
9 That s the reason -- if we were doing a fee  
10 case, then I would be real concerned about  
11 it. But since we're not, I'm not concerned  
12 about it because, like I said, we're paying  
13 the bills. If we're running a deficit on  
14 one side and the other is being made up on  
15 the other side -- and like I said, for a  
16 long time Title V was paying the freight  
17 for the other folks, so it's -- we can  
18 afford to do the other one for a while if  
19 it's that way. But I do want to get a  
20 picture of where we are after we get our  
21 budget submitted and true that up just for  
22 us internally and then I'll be sharing that  
23 with the Council and with you all. But I  
24 think we're reasonably okay, I know we are  
25 money-wise, I'm just not sure about the



1 balance between the two, the split in the  
2 Title V and non-Title V. And as part of  
3 that, too, we've got to make sure we're  
4 still doing a good job of being rigorous  
5 about our coding of time and that sort of  
6 thing.

7 MS. MYERS: The EPA does not see  
8 this report, this is just for the Council?

9 MS. BOTCHLETT-SMITH: This is  
10 just the Council's report. EPA requires us  
11 to do different types of report just on our  
12 grant. So they receive reports, it's just  
13 not structured like this.

14 And since Bud mentioned it, I might  
15 also just throw this out now, quarterly  
16 billing, if you've been on quarterly  
17 billing, you'll continue to be. Our first  
18 bills will go out on April 30th and I do  
19 have a schedule of who gets billed when and  
20 even some amounts. So if anybody has any  
21 questions about that and they want to ask  
22 me after the meeting, I've got that with me  
23 and I'll be happy to meet with you.

24 (Inaudible comment)

25 MR. TERRILL: Oh, yes.



1                   Yes, sir.

2                   MR. WILSON:    Can I ask a -- it's  
3 probably a really dumb question but it  
4 won't be the first time.

5                   MR. TERRILL:   Well, I probably  
6 won't be able to answer it so it won't be  
7 the first one I haven't answered, either.

8                   MR. WILSON:    The per ton charge  
9 or fee for minor sources and for Title V  
10 sources is the same.   Why is it so  
11 important that you all be able to account  
12 for time spent on one versus the other?  
13 Why is it so important?

14                  MR. TERRILL:   Well, for one  
15 thing, we need to have an idea, internally,  
16 about how much time we're spending with  
17 those different programs because  
18 theoretically, when EPA set up Title V,  
19 they were -- it was supposed to pay only  
20 for those things that were set out in  
21 statute, to be paid for by Title V.   The  
22 problem with that is they were never  
23 specific in their rulemaking in exactly  
24 what that should be.   So there are some  
25 things that are very obvious should be



1 Title V related and there are others that  
2 are not quite so obvious, like, for  
3 instance, a monitor. We've got a monitor  
4 out there that's downwind of an Title V  
5 source but it's also downwind of a  
6 interstate, you get a mix of emissions from  
7 both Title V and what we consider non-Title  
8 V source, so you would split that one, but  
9 how you would split it is a matter of  
10 judgment. So it was really designed for us  
11 to be able to -- our T and E system was  
12 designed for us to be able to come back to  
13 the Council and to the fee payers and say,  
14 here's what we're spending on your Title V  
15 industries and here is what it costs us.  
16 It was a way for us to justify our fees,  
17 for one way. But it's also --  
18 theoretically, EPA is supposed to do an  
19 audit on a periodic basis to show that your  
20 Title V program is adequate for the work  
21 that's being done. We have not gotten one  
22 of those. The reason they don't want to do  
23 that is because they don't want to set out  
24 in anything that's firm exactly what's  
25 Title V and what's non-Title V because the



1 hope is that eventually the feds can  
2 continue to cut back on the budgets and  
3 continue to dump that off on the states.  
4 They would like for the fee payers to pay  
5 for all of it and -- but if they have set  
6 rules that are rigid in what you can pay  
7 and what you can't pay for, that's awful  
8 difficult to do. So that's kind of a long-  
9 winded answer, I hope it got at what you're  
10 asking.

11 MR. WILSON: Well, I'm just  
12 wondering, you know, what are your  
13 accounting procedures with regard to  
14 distinguishing one from the other. How do  
15 they stack up against another state? Do  
16 you ever -- were you ever in a forum of  
17 some sort that you can find out where you,  
18 have you stack up against another state's  
19 program?

20 MR. TERRILL: You mean relative  
21 to what we're charging for fees or how  
22 we're tracking them?

23 MR. WILSON: How you're tracking  
24 them.

25 MR. TERRILL: We have -- in our



1 CENSARA group, which is our nine states  
2 that we mainly interact with, more so than  
3 our STAPPA states, which is national, we  
4 have a lot of discussions about that.  
5 We've probably got a more elaborate T and E  
6 system than just about anybody else. Most  
7 states back into their Title V fees.  
8           Nebraska, for instance, they take  
9 their budget, they figure out about what  
10 they are going to have to have, and then  
11 they back into their Title V fee and that's  
12 what it is, that's the reason it's 50 some-  
13 odd dollars a ton or whatever it is. But  
14 because of the way that we actually go  
15 about bringing our fees to the Council and  
16 then to the fee payers, we have to have a  
17 little bit more elaborate -- and we believe  
18 that's right, to have a little bit more  
19 elaborate system in how we track that. I  
20 don't know of anybody that tracks it to the  
21 degree we do. In fact, we've had some  
22 states that have contacted us about using  
23 our tracking system as a model, but it's  
24 too complicated and a lot of them don't  
25 want to do it because they're not required



1 to do it. And we're really not, either.  
2 We never have been asked by fee payers to  
3 do this, that I'm aware of, but to us it's  
4 just kind of a natural habit now, it's not  
5 that big a deal. But we do need to make  
6 sure that if we're going to do this type of  
7 system that it's accurate, we're vigilant  
8 about it, because if it's not accurate then  
9 it really sends a misleading view of what  
10 we're doing. I think that's important for  
11 our managers to understand exactly where is  
12 our workload, where our folks have are  
13 spending their time. And some of that is a  
14 function of the fact that we're an awful  
15 young staff and in our compliance section,  
16 we've got out of the 26 folks, we've got 13  
17 of them that have been there less than  
18 three years. We've got only four folks  
19 that have got more than eight years. And  
20 so we're real young and that affects how  
21 long it takes you to do things. They re  
22 learning. So I'm concerned that we're  
23 skewing our time to some degree that we'll  
24 get better and more -- we may be able to  
25 shift that around so it's kind of a fluid



1 type thing. But we probably go to more  
2 extreme as far as documenting what we do  
3 and how we do it than just about -- I don't  
4 know of any other state that has the degree  
5 that we go to.

6 MR. BRANECKY: I think part of  
7 that may go back to, I believe in 1993 when  
8 they amended the Oklahoma Clean Air Act and  
9 the \$10 fee was put into the Oklahoma Clean  
10 Air Act, there was also language that said  
11 any increases has to be based on  
12 demonstrated reasonable cost.

13 MR. TERRILL: Yes. And all of it  
14 is suppose to be --

15 MR. BRANECKY: So that's probably  
16 where that came from.

17 MR. TERRILL: Yes. That language  
18 should be in every state's -- because that  
19 comes out of the federal requirements.  
20 You're supposed to demonstrate what the  
21 costs are to the Title V side of the  
22 program so that EPA can come in and say  
23 you're funding it correctly or you're not,  
24 but it also provides us good documentation  
25 for the fee payers, which is only right.



1 MR. WILSON: Thank you.

2 MR. TERRILL: I am disorganized  
3 today and I apologize. I've got so many  
4 papers I thought I was going to need, and I  
5 probably won't end up needing any of them.  
6 But we've got a new Council Member today,  
7 Laura Worthen is here. She is taking Bill  
8 Breisch's spot and she had written out a  
9 nice little biography. I'm just going to  
10 let you do it, Laura. I know she's a  
11 graduate of OU and she works for the Benham  
12 Group and she's an air quality consultant  
13 and that's her primary focus. But beyond  
14 that, I can't remember what you wrote and I  
15 can't find it.

16 MS. WORTHEN: I'm the air manager  
17 for the Benham Companies and I manage all  
18 three of the environmental groups -- the  
19 air group in all three offices; Norman,  
20 Tulsa and Arlington. And I do air work,  
21 permitting work, in this region as far as  
22 states are concerned: Oklahoma, Texas,  
23 Louisiana, New Mexico, Kansas, Iowa; the  
24 states around here. I've been doing it for  
25 about six years now. And I've got a



1 bachelors and Masters in Chemical  
2 Engineering from OU.

3 MR. TERRILL: You did much better  
4 than I could. But anyway, we welcome her  
5 and we've got several new Council Members.  
6 Bob Curtis has only been here for about a  
7 year, and Mr. Don Smith has only been here  
8 about six months. Joel will be leaving,  
9 his term is up. So we'll have someone new  
10 in his spot, so we've got a lot of new  
11 folks and a pretty exciting time, so we  
12 appreciate your efforts in being here.  
13 Thank you, Laura.

14 MS. BOTCHLETT-SMITH: Good  
15 morning. I'm Beverly Botchlett-Smith,  
16 Assistant Director of the Air Quality  
17 Division and I'll be serving as a Protocol  
18 Officer for today's hearings.

19 These hearings will be convened by  
20 the Air Quality Council in compliance with  
21 Oklahoma Administrative Procedures Act and  
22 Title 40 of the Code of Federal  
23 Regulations, Part 51, as well as the  
24 Authority of Title 27A of the Oklahoma  
25 Statutes, Section 2-2-201, Sections 2-5-101



1 through 2-5-118.

2           These hearings were advertised in  
3 the Oklahoma Register for the purpose of  
4 receiving comments pertaining to the  
5 proposed OAC Title 252:100 Rules as listed  
6 on the agenda and will be entered into each  
7 record along with the Oklahoma Register  
8 filing.

9           Notice of special meeting was filed  
10 with the Secretary of State on December  
11 10th, 2004 and amended on January 27th,  
12 2005. The agenda was duly posted 24 hours  
13 prior to the meeting on the doors at the  
14 DEQ and at this meeting facility, North  
15 Hall 150, at the OSU Tulsa Campus.

16           If you wish to make a statement,  
17 it's very important you complete the form  
18 at the registration table and you'll be  
19 called on at the appropriate time.

20 Audience members please come to the podium  
21 for your comments and please state your  
22 name before speaking.

23           At this time, we'll proceed with  
24 what's marked as Agenda Item Number 6 on  
25 the hearing agenda. And we have -- we're



1 going to present this as one package.  
2 There are several rules, I'm going to read  
3 them all, and then we have several staff  
4 members that are going to be coming up in  
5 succession to present each portion of that  
6 rule.

7           The first, OAC 252:100-5,  
8 Registration, Emissions Inventory and  
9 Annual Operating Fees will be presented by  
10 Dr. Joyce Sheedy.

11           DR. SHEEDY: Madam Chair, Members  
12 of the Council, ladies and gentlemen, the  
13 Department is proposing revisions to  
14 Subchapter 5, regarding registration,  
15 emission inventory and annual operating  
16 fees, in conjunction with the proposed  
17 revision to Subchapter 41 and the proposed  
18 new Subchapter 42.

19           The proposed revision to Subchapter  
20 5 was first presented to the Council at the  
21 January 2005 Council meeting and the  
22 hearing was continued to today's meeting.  
23 The proposed revision to Subchapter 5 will  
24 increase the annual operating fees for  
25 stationary sources that emit hazardous air



1 pollutants that emit toxic air contaminants  
2 or that emit volatile organic compounds.  
3 The increased fees will provide funds for  
4 the air toxics program proposed in new  
5 Subchapter 42. The proposed changes to  
6 Subchapter 5 are to Sections 5-1.1,  
7 Definitions; and 5-2.2, Annual Operating  
8 Fees.

9           In Section 5-1.1, we propose to  
10 revise the definition of "regulated air  
11 pollutants" to include toxic air  
12 contaminants as defined and regulated under  
13 Subchapter 42. We also propose to add two  
14 new definitions defining Group I regulated  
15 air pollutants and Group II regulated air  
16 pollutants. These two new definitions are  
17 for fee purposes only. Basically, Group I  
18 regulated air pollutants -- I'm sorry,  
19 basically, Group II regulated air  
20 pollutants includes hazardous air  
21 pollutants, toxic air contaminants and  
22 volatile organic compounds. And Group I  
23 includes all the other regulated air  
24 pollutants for which we charge fees.

25           In Section 5-2.2, we propose to add



1 new paragraph (a)(3) stating that if a  
2 particular substance can be classified as  
3 more than one type of regulated air  
4 pollutant, only one classification shall be  
5 assigned to that substance for fee purposes  
6 and that if a substance can be classified  
7 as both a Group I and a Group II regulated  
8 air pollutant, it shall be classified as a  
9 Group II regulated air pollutant.

10 We propose to modify subparagraph 5-  
11 2.2(b)(1)(B) by deleting the words "no more  
12 than" prior to \$22.28. We propose to add a  
13 new subparagraph that sets annual  
14 operating fees for minor sources for Group  
15 I, regulated air pollutants, at \$22.28 per  
16 ton of emissions; and Group II regulated  
17 air pollutants at \$40 per ton of emissions.

18 We propose to modify subparagraph 5-  
19 2.2(b)(2) to delete the words "no more  
20 than" prior to \$22.28 and to add a new  
21 subparagraph 5-2.2(b)(2)(D) that sets  
22 annual operating fees for Part 70 sources  
23 at \$23.36 per ton of emissions less any  
24 adjustment necessitated by the appropriate  
25 Consumer Price Index for Group I regulated



1 air pollutants and at \$40 per ton of  
2 emissions for Group II regulated air  
3 pollutants.

4           After this rule was placed on the  
5 website and the Council packets were  
6 prepared and mailed, we were made aware of  
7 a few nonsubstantive clarifications that  
8 should be made in Section 5-1.1. There is  
9 an inconsistency in the way we refer to  
10 "Federal Clean Air Act". In some instances  
11 we referred to it as the "Federal Clean Air  
12 Act" and others we simply refer to it as  
13 "the Act". Since "Act" is defined in  
14 Section -- in Subchapter 8, section 1.1 to  
15 mean the "Federal Clean Air Act", it's our  
16 intention to move this definition to  
17 Subchapter 1 so that it will apply to the  
18 entire Chapter 100. And change where we  
19 have said Federal Clean Air Act , change  
20 it to "the Act". And this should reduce  
21 the confusion. So this would mean deleting  
22 "Federal Clean Air Act" from paragraphs (B)  
23 and of the definition of "regulated air  
24 pollutant" on page two and from paragraphs  
25 (B) and (F) of the proposed definition of



1 "Group I regulated air pollutants" on page  
2 two, and from paragraph (B) of the proposed  
3 definition of "Group II regulated air  
4 pollutant".

5           In conjunction with an upcoming  
6 revision of the definition of "volatile  
7 organic compound" we propose to delete  
8 252:100-37-2 or 252:100-39-2 from paragraph  
9 (A) of the definition of "regulated air  
10 pollutants" on Page 2, and from paragraph  
11 (A) of the definition of "Group I and Group  
12 2 of regulated air pollutants".

13           The definitions in Subchapters 1,  
14 37, 39 are identical, so it is redundant to  
15 list all three citations in the  
16 definitions. In the future we will  
17 probably delete the definition of "volatile  
18 organic compound" from Sections 37-2 and  
19 39-2.

20           Lisa Donovan will now present the  
21 proposed revisions to Subchapter 41 and the  
22 proposed new Subchapter 42.

23           MS. BOTCHLETT-SMITH: This next  
24 portion of the agenda is OAC 252:100-41,  
25 Control of Emission of Hazardous Air



1 Pollutants and Toxic Air Contaminants and  
2 OAC 252:100--42, Control of Toxic Air  
3 Contaminants. Lisa.

4 MS. DONOVAN: Madam Chair,  
5 Members of the Council, ladies and  
6 gentlemen, the Department is proposing  
7 amendments to OAC 252:100--41, Control of  
8 Emission of Hazardous Air Pollutants and  
9 Toxic Air Contaminants and the addition of  
10 252:100-42, Control of Toxic Air  
11 Contaminants.

12 The Department is proposing to  
13 redefine the state air toxics program.  
14 Amendments are proposed to Subchapter 41  
15 that will divide federal and state-only  
16 requirements. The incorporation by  
17 reference of 40 CFR citations and  
18 definitions for hazardous air pollutants  
19 and asbestos will be retained in Subchapter  
20 41 and two sections will be added as OAC  
21 252:100--41--3 and 100-41-4 for conformity  
22 with existing rules.

23 The Department is not proposing  
24 revocation of the state-only requirements  
25 at this time, in order to ensure that the



1 Department will not be left without a  
2 toxics program. Language is included in  
3 Subchapter 41 stating that the subchapter  
4 will only remain effective if Subchapter 42  
5 does not supersede it. Language is also  
6 included in Subchapter 41 stating that Part  
7 3 will not be superseded.

8           Subchapter 42 will streamline the  
9 Department's air pollution control program  
10 and reduce stationary source permitting and  
11 compliance-related costs because there are  
12 fewer state toxics to be considered. The  
13 Department's current toxics program  
14 detailed in Subchapter 41 requires  
15 consideration of over 2,000 substances and  
16 significant investment of resources, in  
17 which the effectiveness in controlling  
18 toxics cannot be measured. New Subchapter  
19 42 addresses only those toxic air  
20 contaminants that are likely to pose a  
21 threat to the health of Oklahomans.

22           Modeling and monitoring of TAC  
23 concentrations will be used to identify  
24 geographical areas in Oklahoma with  
25 contaminant concentrations above the



1 standard. The Department may designate  
2 these as "Areas of Concern". The rules  
3 then provide for the Department to identify  
4 the pollutant sources and possible methods  
5 for their control. The Department's  
6 findings and other information will be made  
7 available through various means, including  
8 public meetings and publication on the  
9 agency website.

10 Additional funding will be required  
11 in order for the proposed air toxics  
12 program, set forth in Subchapter 42, to be  
13 implemented. If Subchapter 42 is not  
14 approved, or if new funding is not  
15 provided, the Department will maintain the  
16 toxics program as it currently exists in  
17 Subchapter 41. If Subchapter 42 is not  
18 funded, the Department will ask that the  
19 subchapter be revoked before it goes into  
20 effect. Language is included in Subchapter  
21 42, stating that when effective, Subchapter  
22 42 supersedes all of Subchapter 41, except  
23 for Part 3.

24 Parts of Subchapter 42 have been  
25 restructured since the January Council



1 meeting, but few of the changes were  
2 substantive. The changes are reflected in  
3 the rule and are described in the summary  
4 of changes provided in the Council packet  
5 and copies of which are available on the  
6 table outside.

7 Two small changes have been made  
8 that are not reflected in the version of  
9 the rule provided in the Council packet.

10 On Page 5, under 42-31(b)(1),  
11 General Requirements, in the first sentence  
12 the words "and developed" and "proper  
13 management of" have been deleted.

14 On Page 6, under 42-31(b)(4),  
15 Control Measures, the entire first sentence  
16 has been deleted. These changes are based  
17 on comments received after the packet was  
18 sent out.

19 Notice of the proposed rule changes  
20 were published in the Oklahoma Register on  
21 March 15th, 2005 and comments were  
22 requested from members of the public.

23 The Department has received letters  
24 of comment from EPA and OIPA, copies of  
25 which have been made available to the



1 Council and will be entered into the  
2 record. The EPA provided no additional  
3 comments in a letter dated April 12, 2005,  
4 stating that comments were previously  
5 provided on the rule. The OIPA again  
6 expressed concern over the impact of the  
7 designation of an area of concern on their  
8 members. State reiterates that control  
9 strategies entailing anything beyond  
10 current permit or rule requirements will  
11 have to go through rulemaking before they  
12 will be imposed on any facility.

13 A complete list of comments received  
14 prior to April 13th and staff's response to  
15 those comments has been provided on the DEQ  
16 website, in the Council packet, and is  
17 available on the table.

18 Staff has received many questions  
19 about how this rule will be implemented.  
20 In response, I will now present a summary  
21 of how staff anticipates the process  
22 working. Staff does not suggest that all  
23 cases will be addressed in exactly the same  
24 manner. Every situation will be evaluated  
25 on a case-by-case basis. However, the



1 basic process envisioned for the toxics  
2 program is as follows.

3           The Department will monitor in areas  
4 of the state where it is suspected an AOC  
5 might exist. Monitors will be located  
6 where the public could be effected.

7           The Department will publish all  
8 monitoring data on its website as it  
9 becomes available. Prior to any AOC  
10 designation, the Department will discuss  
11 the monitoring results with the affected  
12 industries and local government leaders to  
13 insure data correctness and discuss  
14 possible solutions. A proposed AOC will be  
15 noticed prominently and presented at a  
16 public meeting in the area affected by the  
17 AOC.

18           Once an AOC has been designated, the  
19 Department, with input from affected  
20 parties, will devise an AOC compliance  
21 strategy.

22           If the compliance strategy requires,  
23 new rules will be proposed following  
24 established rulemaking procedures. Any new  
25 rule will be presented at hearings before



1 the Air Quality Council and Environmental  
2 Quality Board and will be subject to  
3 legislative and gubernatorial approval.

4           Once a compliance strategy is in  
5 place, the Department will again monitor  
6 the AOC to determine if the TAC/MAAC action  
7 level is still exceeded.

8           If the ambient air concentration of  
9 the TAC of concern no longer exceeds the  
10 TAC/MAAC action level, the AOC will be  
11 declared to be in attainment.

12           The Department may continue to  
13 monitor within the AOC while the strategy  
14 is being implemented.

15           Rules, permit conditions and/or  
16 control strategies that were a result of  
17 the AOC will, in all likelihood, remain in  
18 effect once the AOC designation is declared  
19 in attainment.

20           No additional permitting or control  
21 measures are required for facilities  
22 emitting a TAC until a final AOC  
23 designation is made.

24           Cheryl Bradley will now present  
25 Appendix O and answer questions.



1                   MS. BOTCHLETT-SMITH:    Before we  
2    present Appendix O, we thought we would  
3    open it to the Council for questions on 41  
4    and 42.

5                   MR. BRANECKY:    Lisa, you started  
6    out with the process, starting out at  
7    monitoring.    What are you going to do prior  
8    to the monitoring to determine where to  
9    monitor, how is that process going to  
10   start?   How do you determine where to  
11   monitor?   What basis are you going to use?

12                  MS. DONOVAN:    I think we  
13   discussed it could be a complaint, it could  
14   be inspection-based, it could be a flag  
15   raised on an emission inventory.    I don't  
16   think we've set absolutes as to what will  
17   trigger it.

18                  MR. BRANECKY:    Are you going to  
19   actively go out and start looking for  
20   areas?    Is that --

21                  MR. TERRILL:    I don't think so.  
22   That's really not -- what we want here is a  
23   framework that we can use if a problem is  
24   presented to us that may or may not be  
25   accurate.    But I can't say that we won't,



1 but we won't -- we don't have that in our  
2 plans right now. It will take us probably  
3 six months to a year to identify two or  
4 three people that are going to be our  
5 toxics experts and get those folks up to  
6 speed technically, because this is a very  
7 complicated area and it's not something you  
8 just jump into. So we'll spend quite a bit  
9 of time developing our own internal  
10 expertise. But I would imagine that we  
11 would be mostly reacting to complaints,  
12 possibly emissions inventories. If it  
13 looks like we've got a facility or a group  
14 of facilities that have a particular toxic  
15 that's in our Appendix O that looks like it  
16 might be of interest, we might take a look  
17 at that. But we don't have any really set  
18 agenda as far as going out and starting  
19 monitoring all over the state. Mainly,  
20 because we don't have the money. It's  
21 going to have to be driven by some type of  
22 concern that arises within the course of  
23 our business, because we just don't have  
24 the manpower or the money to go out and  
25 pull samples all over the state, looking



1 for a variety of toxics.

2 MS. MYERS: If a facility has  
3 something in an emissions inventory that  
4 triggers some concern, would you do any  
5 modeling before you went out and started  
6 monitoring?

7 MR. TERRILL: More than likely we  
8 would do a lot of work before we did the  
9 actual monitoring, because the actual  
10 monitoring is where the real expense comes  
11 in, so we would do a lot of that  
12 beforehand. And I would imagine, as a  
13 practical matter, that if we, through  
14 emissions inventory, identified an area  
15 that we thought might be a problem and it  
16 hadn't come to us through a complaint or  
17 some other avenue, we would probably visit  
18 with the industry involved and say we're  
19 looking at this area and we've got these  
20 concerns and bring them in at that point,  
21 because this is not a gotcha program.  
22 This is a public health program that's  
23 designed to protect the citizens and most  
24 of the time we've found that industry  
25 really wants to be a good neighbor and we



1 want to give them that opportunity to do  
2 that. And so I can see us working with  
3 them before we ever did any monitoring,  
4 just to make sure that what we're looking  
5 at is correct because there is so much  
6 interest, if you will, that always bubbles  
7 around toxics anyway, that you really want  
8 to make sure that we know what we're doing  
9 and what we're saying before we actually go  
10 public with anything like that.

11 MS. MYERS: Is there any point in  
12 time that you anticipate requiring all  
13 major sources to do any kind of stack  
14 testing for some of these compounds?

15 MR. TERRILL: Well, I'll never  
16 say never on that because the feds -- right  
17 now that's the big issue with them, is  
18 stack testing and I forget what they're  
19 calling them, the model rule for stack  
20 testing, but I think they're being sued on  
21 that. But no, we don't have any plans like  
22 that. Again, that's a -- we have to  
23 identify a problem and stack testing would  
24 have to be the method for verifying what  
25 the actual emissions that were causing the



1 problem. But if we're doing a statewide  
2 type thing, not practical.

3 DR. LYNCH: There was some  
4 language about it could affect the public.  
5 Is that one person or 10 people or -- I  
6 don't know what that means.

7 MR. TERRILL: I don't think that  
8 we really had anticipated to put a number  
9 on that, because if one person, if they've  
10 really got an issue, that's just as  
11 important to that person as if it's  
12 affecting the whole community. And  
13 probably what you're talking about there  
14 would be complaint-driven. If we got a  
15 complaint that only affected a single  
16 neighborhood, then we would investigate it  
17 and try to come up with a solution. Scott,  
18 do you have a better response than that?

19 MR. THOMAS: I'm Scott Thomas.  
20 That language was also put into that  
21 description to ensure, to sort of say that  
22 we're going to place the monitors off  
23 property. The monitoring will be where  
24 people would be exposed -- general public  
25 could be exposed to. The monitors would



1 not be located in areas on property site.

2 MS. MYERS: So it couldn't -- it  
3 wouldn't necessarily be driven by  
4 disgruntled employees complaining.

5 MR. THOMAS: Right. It just --  
6 where the monitors would be are not on --  
7 inside the properties. It's like our  
8 ambient air quality samples are now,  
9 they're generally where the public could be  
10 exposed, because it's all public health  
11 driven.

12 MS. DONOVAN: Right. And also  
13 not where there's a facility out in the  
14 middle of nowhere where we wanted that --  
15 we put that in there to specify where  
16 people live or play or go to school or --  
17 that was what the intent of that was, I  
18 believe.

19 DR. LYNCH: What about other  
20 resources, like fisheries or endangered  
21 species, someone calls and says this is  
22 wafting over where the bald eagles roost.

23 MR. TERRILL: I think you asked  
24 that question last time and I'm not sure we  
25 had a very good answer then, so I'm not



1 going to promise you I've got a very good  
2 answer now.

3 DR. LYNCH: That is part of  
4 public health.

5 MR. TERRILL: Yes, it is. And  
6 that's one of the things that EPA has been  
7 asked to take a look at as part of their  
8 internal look at how they administer their  
9 rules and how they protect public health  
10 and the public welfare, and that goes to  
11 ecosystems and things like that. They have  
12 not done a very good job of putting forth  
13 rationales and strategies for doing that.  
14 That's what the secondary ambient air  
15 standard is designed to do, is protect the  
16 ecosystems and things besides human health.  
17 And to be honest with you, my biggest goal  
18 right now is to get a program off the  
19 ground that does the former. If at some  
20 point down the road EPA provides the  
21 expertise, because that's where it will  
22 take a lot of expertise in order to figure  
23 out what kind of impact it's going to have  
24 in other ecosystems. It's hard enough to  
25 do it with humans, let alone trying to



1 figure out what is being done to the  
2 ecosystem. So it will have to be a  
3 cooperative effort in the communities and  
4 with EPA to develop the expertise and have  
5 the resources to do that. And if we're  
6 able to do that in ten years, I'll be  
7 surprised, because EPA hasn't been able to  
8 do it in 30. But it's a goal that we  
9 should have at some point, but I can't  
10 guarantee that we will get there. I think  
11 we'll strive to but I'll just be satisfied  
12 if we have a program that helps us  
13 understand what the impacts of toxics are  
14 on the human population, first.

15 DR. LYNCH: There could be food  
16 chain effects.

17 MR. TERRILL: There's a lot of  
18 studies going on like that. I forget what  
19 the term for that is, but it's all media  
20 exposure and really that's really how you  
21 get at what the actual human impact is, you  
22 get it through the air, through the food,  
23 through the water, indoor exposures, I mean  
24 there is just a host of things that factor  
25 into this and to understand those I think



1 are essential, as well. I would be less  
2 that honest if I said that I thought that  
3 we were going to be able to get at the  
4 ecosystem-part of this anytime in the near  
5 future.

6 DR. SHEEDY: This is Joyce  
7 Sheedy. I think we don't have the data now  
8 that would allow us to put good numbers out  
9 for protecting the ecosystem at all and we  
10 don't have the funds to do that kind of  
11 research. So in the future, if this  
12 becomes known through EPA's research or  
13 whatever, then we'll amend this rule. We  
14 can amend it (inaudible) -- take that into  
15 consideration when there is some data.

16 DR. LYNCH: Actually, there are  
17 probably better numbers for wildlife than  
18 there are for people.

19 DR. SHEEDY: Are there really?

20 DR. LYNCH: We can experiment on  
21 wildlife but we don't experiment on people.

22 MS. BOTCHLETT--SMITH: Mr. Smith,  
23 do you have a question?

24 MR. SMITH: Yes. Concerning the  
25 amount of the fees for emissions, what is



1 the fee supposed to relate to in terms of  
2 dollars per ton for emissions?

3 MR. TERRILL: The one we're  
4 asking for here, as far as this?

5 MR. SMITH: More in general.  
6 When you say the revenues now are  
7 insufficient to cover your costs of  
8 monitoring, I was curious what the standard  
9 is for setting a fee.

10 MR. TERRILL: Well, the -- I  
11 don't know what the exact number is at the  
12 federal level now, but there is -- the Feds  
13 have, what they have as a presumptive Title  
14 V fee of \$35.59 or something like that.  
15 They presume that in order to run an  
16 adequate Title V program, that you have to  
17 charge \$35.59 or whatever it is per ton, to  
18 all Title V sources in order to have enough  
19 money generated to run that program. The  
20 way we go about it is, we look at what our  
21 requirements are, both from under our grant  
22 and also from our -- all the other things  
23 that we're required to do. And we  
24 calculate -- we calculate originally what  
25 the fee should be from that. And then if



1 we add anything to do that, like this  
2 toxics program for instance, is an activity  
3 that really hasn't been done before in this  
4 manner in Oklahoma and then we have to  
5 calculate the best we can, what we think it  
6 will take for us to do the work for this  
7 and then we either have to tack that onto  
8 fees that already exist and raise those to  
9 pay for it or kind of like we're doing here  
10 and ask for a toxics fee specifically  
11 designed to fund that part of the program.

12 MR. SMITH: My question relates  
13 to the original concept of fees for  
14 pollution. And you mentioned EPA hasn't  
15 been able to do something in 20 years. I  
16 used to teach environmental economics, 30  
17 years ago. And the concept of the Clean  
18 Air Act and others similar to that was that  
19 the fee for emissions would be related to  
20 the cost on society, the cost of emissions.  
21 And now that we're talking about hazardous  
22 emissions, or toxic emissions, the  
23 appropriate fee would be the incremental  
24 cost on society of that emission and not  
25 related to the cost of administering it;



1 and presumably, if their hazardous  
2 substances causes society to be a huge  
3 multiple compared to the cost of  
4 administering it. Another way of saying  
5 it, the cost of society, a portion of that  
6 cost would be the cost of administering it.  
7 So as you struggle to raise fees to the  
8 appropriate level, if the emissions are at  
9 all harmful to society, the fee should be  
10 much larger than your cost of  
11 administering.

12 MR. TERRILL: And I also know the  
13 practical side of it, I'll be lucky to get  
14 what I've asked for here without trying to  
15 do that. It would be very difficult for us  
16 to quantify that. I don't disagree with  
17 what you're saying at all, but the problem  
18 is having that kind of information and the  
19 ability to make sure that it was collected  
20 in the right manner so that we could  
21 present it in such a fashion that could be  
22 understandable by those, by the Council and  
23 by those that are going to be paying it,  
24 would be awful difficult to do, I would  
25 think. And the other side of that is, we



1 really don't know for sure what our toxics  
2 problem here is in Oklahoma. We may not  
3 have one at all in a lot of the state but  
4 we may have very localized pockets where we  
5 have significant problems and that's really  
6 what this is designed to do. And the  
7 ability to identify those problems and then  
8 work with the community to try and fix it  
9 is really what we're trying to do here. I  
10 just don't -- it would be very difficult, I  
11 think, to get at what you're trying to do.  
12 But I don't disagree that that's  
13 theoretically how this should be done, it  
14 would just be awful hard to do in this  
15 setting, with our limited resources to do  
16 that.

17 MR. SMITH: I think it would be  
18 impossible on a state level, but I remember  
19 20, 30 years ago there was data on the  
20 costs of monitoring disease, for example,  
21 it does include a whole lot of other costs  
22 of suffering and relationships, but the  
23 cost to tinker in nitrous oxides and that  
24 sort of thing impacting on human health, so  
25 there would be marginal costs related to



1 those.

2 MR. TERRILL: And EPA does a lot  
3 of that when they set their ambient air  
4 standards and also as part of their  
5 community-based toxics program, which they  
6 are really pushing now. They have come up  
7 with data that shows what the impact on the  
8 community of toxics are and it's in the  
9 billions of dollars. So the EPA has got a  
10 lot of that data, but being able to  
11 translate that to our own situation, that  
12 would be awful difficult, so we just try to  
13 keep it simple.

14 MS. BOTCHLETT-SMITH: Ms.  
15 Worthen.

16 MS. WORTHEN: Are companies going  
17 to be required to report under emissions  
18 inventory, pollutants that are not a HAP  
19 and not in the Appendix O list, toxic air  
20 pollutants?

21 MR. TERRILL: I don't think so.

22 MS. WORTHEN: Okay.

23 MR. TERRILL: I can't imagine why  
24 we would do that. I'm trying to think if  
25 the feds have a requirement under their --



1                   MS. WORTHEN:    Right now  
2    Subchapter 41 requires all toxic air  
3    contaminants on a list, that s massive.

4                   MR. TERRILL:    Yes.    No, that's  
5    part of the purpose of doing this, is to  
6    get away from that because it really  
7    doesn't provide any value to anyone.    We  
8    don't do anything with that and that's part  
9    of the reason to split this out and  
10   condense that down significantly.    So the  
11   answer to your question is no, that will  
12   not be required.

13                  MS. BOTCHLETT--SMITH:    Do we have  
14   any other questions from the Council today?  
15   Okay.    I have received several requests to  
16   comment.    I'm not sure exactly if these  
17   people --

18                  MR. TERRILL:    Are we going to go  
19   through O first?

20                  MS. BOTCHLETT-SMITH:    Well, that  
21   was my question.    I don't know if these  
22   people are wanting to comment based on what  
23   is going to be in O?    If I could go through  
24   -- Nadine, what are you wanting to comment  
25   on?    Just for clarification, and then we'll



1 decide if we're going to comment now or  
2 after 0.

3 MS. BARTON: Well, I would like  
4 to have a public comment before the vote.

5 MS. BOTCHLETT-SMITH: That's  
6 fine, but we've got another section to go  
7 over in this --

8 MR. TERRILL: Let's do 0.

9 MS. BOTCHLETT-SMITH: -- agenda.  
10 I just wanted to make sure you weren't  
11 wanting to comment on something we  
12 previously talked about.

13 MS. BARTON: No, I want to talk  
14 on the air toxics thing here.

15 MS. BOTCHLETT-SMITH: Okay.

16 MS. BARTON: A couple of  
17 clarifications.

18 MS. BOTCHLETT-SMITH: Okay.

19 Well, let's go ahead and go with the next  
20 portion.

21 MR. BRANECKY: I had a question  
22 on 5. Do you want me to wait until after  
23 0?

24 MS. BOTCHLETT-SMITH: No, go  
25 ahead and do No. 5 now while we re thinking



1 about it.

2 MR. BRANECKY: I guess, maybe  
3 it's just me. On Page 4, under Part 70  
4 sources, (2)(D)(I), beginning January 1,  
5 2007, the operating fees shall be \$23.36  
6 per ton plus any adjustment necessitated by  
7 the appropriate Consumer Price Index.  
8 Which Consumer Price Indexes are you going  
9 to adjust by?

10 MS. BOTCHLETT--SMITH: We use the  
11 all (inaudible).

12 MR. BRANECKY: From what point --  
13 are you going to go back to what point in  
14 time, it adjusts from that point forward?

15 MS. BOTCHLETT--SMITH: We adjust  
16 by CPI based on what comes out at the end  
17 of August, so we make those adjustments in  
18 September each year on our Title V fees.

19 MR. BRANECKY: So it will be  
20 \$23.36 and then from that point on, August  
21 of 2007 will be an adjustment to that; is  
22 that what you're saying?

23 MS. BOTCHLETT--SMITH: You would  
24 adjust it, if it's a two percent increase,  
25 then you would increase it by two percent.



1

2 MR. BRANECKY: Isn't the fee now  
3 \$23.36? So we're not going to have any  
4 adjustments between now and 2007 or when it  
5 gets to 2007 are we going to go back to  
6 this year's fee? I'm trying to understand.

7 MS. BOTCHLETT--SMITH: You're  
8 saying, are we not going to include the CPI  
9 adjustment that will come out this August?

10 MR. BRANECKY: This August  
11 through 2006. Because --

12 MR. PAQUE: I'm Matt Paque. This  
13 fee can't be proposed to the Board until  
14 January of '06.

15 MR. BRANECKY: Okay.

16 MR. PAQUE: And I believe the  
17 \$23.36 is the current Title V fee.

18 MR. BRANECKY: Right.

19 MR. PAQUE: So CPI adjustments  
20 will still take place based on the next  
21 year s number.

22 MR. BRANECKY: Well, it's still  
23 not clear to me which year's CPI are you  
24 going to adjust by? Is it January 1st,  
25 2007 it's going to be \$23.36 and then from



1 that point on you'll make the adjustment?

2 MR. BOTCHLETT-SMITH: I don't  
3 think that's the intent.

4 MR. TERRILL: No, that's not the  
5 intent. It's whatever the CPI would have  
6 adjusted that \$23.36 to from what time we  
7 took it.

8 MR. BRANECKY: From the previous  
9 year or from the previous five years?  
10 We've been adjusting the CPI --

11 MR. TERRILL: Every year, that's  
12 right. And we will have two more  
13 adjustments between what it is now and what  
14 it will be in 2007. So what we were trying  
15 to say, I think, is that our fee is now  
16 \$23.36 and we'll adjust by the appropriate  
17 Consumer Price Index however many times  
18 that would be between now and 2007, which  
19 would be at least once and maybe twice. I  
20 know what you're saying.

21 MR. BRANECKY: I don't know.  
22 Maybe that's clear to you guys, but it's  
23 not clear to me.

24 DR. LYNCH: Well, I think it's  
25 clear to me, but not the way it's written.



1                   MR. TERRILL: I think it's clear  
2 to us what we want to do, whether or not  
3 we've done it here -- what we would be  
4 doing is what we would normally do anyway,  
5 which we don't have to take to the Council,  
6 it's done automatically anyway, that  
7 doesn't have to be approved.

8                   MS. MYERS: What David is saying  
9 is, this \$23.36 becomes the baseline and  
10 then you get a CPI from that point on, is  
11 the way I read it.

12                  MR. BRANECKY: Right. And we'll  
13 be above that baseline by the time you get  
14 around to adjusting it in 2007.

15                  MR. TERRILL: I think that's the  
16 reason they're adjusted by the appropriate  
17 Consumer -- I think you're right.

18                  MR. BRANECKY: But from what  
19 point back, how far back do you go to  
20 adjust?

21                  MS. BOTCHLETT-SMITH: You don't  
22 go back. It's like this is the base and  
23 then each year you make adjustments to  
24 that.

25                  MR. BRANECKY: So -- but next



1 year our fee -- this year our fee is going  
2 to be greater than \$23.36.

3 MR. TERRILL: Unless CPI goes  
4 down.

5 MR. BRANECKY: And then next year  
6 it's going to be adjusted again in 2006.

7 MR. TERRILL: Right.

8 MR. BRANECKY: So January 1st,  
9 2007, you're going to go back and reduce  
10 the fee to \$23.36 and then go from that  
11 point on? That's what it's saying, isn't  
12 it?

13 MS. WORTHEN: Yes, that's the way  
14 it reads.

15 (Multiple conversations)

16 MR. TERRILL: Well, it says 23  
17 plus any adjustment. So --

18 MR. BRANECKY: Which adjustments?  
19 I'm asking you which adjustments.

20 MR. TERRILL: Yes, I know what  
21 you're -- I know what you're getting at.

22 MR. BRANECKY: I don't know where  
23 -- where do you start adjusting from? It  
24 doesn't say from the last -- from such and  
25 such a date, April 20th, 2005 you can make



1 adjustments.

2 MR. PAQUE: I think the way this  
3 rule has traditionally been written is it  
4 has an established fee, but the Department  
5 always raises the fee based on CPI, so from  
6 that point forward --

7 MR. BRANECKY: So that's what  
8 you're saying here?

9 MR. PAQUE: -- I believe they're  
10 saying -- the way I think this can be  
11 changed to work out the way -- I think it's  
12 misleading, part of it, but there will be  
13 two CPI changes before 2007.

14 MR. BRANECKY: Right. And the  
15 fee will be greater than \$23.36 by January  
16 2007, now you're saying (inaudible).

17 MR. TERRILL: Yes. I see what  
18 you're saying.

19 MR. BRANECKY: As a baseline.

20 MR. TERRILL: Yes, we would need  
21 to clarify that. In looking at it in the  
22 context of the overall, you're right. It  
23 looks like it does say starting January 7,  
24 it will be \$23.36 and then we'll adjust it  
25 forward.



1 MR. BRANECKY: Forward.

2 MR. TERRILL: Yes.

3 DR. SHEEDY: That's not what we  
4 meant.

5 MR. BRANECKY: I didn't think so.  
6 I should have kept my mouth shut.

7 MR. TERRILL: Well, I can assure  
8 you that's not what we would have done.

9 DR. SHEEDY: We'll figure out a  
10 way to say what we mean.

11 MS. BOTCHLETT-SMITH: Any other  
12 questions on Subchapter 5?

13 MS. MYERS: Yes, since we're on  
14 that page. It says the annual operating  
15 fees for Group II regulated air pollutant  
16 shall be no more than \$40 per ton. How is  
17 that proposed to be determined? Twenty  
18 dollars a ton sounds real good right now.

19 MS. BOTCHLETT-SMITH: I think  
20 that -- I probably shouldn't be answering  
21 for you all, but I believe the presentation  
22 that we gave at the last meeting indicated  
23 we have looked at several different  
24 scenarios and the one that was being  
25 recommended was actually \$39 -- I'm



1 shuffling papers now -- \$39.40 a ton.

2 MS. MYERS: Right. But there is  
3 still some discrepancy on what the money is  
4 that you actually need and that's a pretty  
5 broad range if you say no more than \$40.  
6 I'm sure we'll get clarification in the  
7 next presentation, right?

8 MR. TERRILL: Probably not.

9 MR. BOTCHLETT-SMITH: Okay.

10 Well, let's go on to the next section of  
11 Item Number 6, which is OAC 252:100,  
12 Appendix O, Toxics Air Contaminants,  
13 Minimum Acceptable Ambient Concentrations.  
14 Cheryl Bradley will give the staff  
15 position.

16 MS. BRADLEY: Good morning. I'm  
17 Cheryl Bradley, the Manager of the  
18 Technical Resources and Projects Section  
19 and I've been asked to present information  
20 on Appendix O.

21 Madam Chair, Members of the Council,  
22 ladies and gentlemen, we're here again  
23 discussing the air toxics program. We've  
24 been doing that with some regularity for a  
25 while because it is a difficult issue to



1 address. How do you build a state air  
2 toxics program that works well, protect  
3 public health and is implementable.

4 The Council last considered the  
5 proposed Appendix O during its January 19,  
6 2005 meeting. Since that meeting, staff  
7 has made changes to the proposed appendix  
8 to address comments received and also to  
9 address issues that were identified by  
10 staff.

11 The most important change is that  
12 the proposed MAAC for each carcinogen will  
13 now be based on the 10 to the minus 4 or  
14 one in 10,000 risk level in EPA's  
15 Integrated Risk Information System.

16 The existing MAACs for nickel and  
17 beryllium established under Subchapter 41  
18 are slightly lower than 10 to the minus 4  
19 based MAACs. In these two cases, the  
20 Department has re-proposed the Subchapter  
21 41 MAAC levels.

22 In the previous version of the  
23 appendix, the Department had proposed that  
24 more stringent standards be established for  
25 known carcinogens at concentrations that



1 represented 10 to the minus 6 or one in  
2 1,000,000 risk level. These known  
3 carcinogens are arsenic, benzene, 1,3-  
4 butadiene, hexavalent chromium and vinyl  
5 chloride.

6           You may ask, why is the Department  
7 proposing this change when scientific  
8 evidence supporting the relationship  
9 between exposure to known carcinogens and  
10 cancer is stronger than it is for possible  
11 or probable carcinogens?

12           EPA established 10 to the minus 4 as  
13 the limit of the range of maximum  
14 acceptable risk under its Title III program  
15 and its standards promulgated under Section  
16 112 of the federal Clean Air Act. While  
17 the resulting risk after implementation of  
18 these standards may be lower than 10 to the  
19 minus 4, EPA has determined that 10 to the  
20 minus 4 is the threshold of acceptability.

21           Under the proposed revisions of  
22 Subchapter 42, stationary sources that are  
23 subject to a federal MACT, a NESHAP, and  
24 Section 129 based standard are exempt. The  
25 non-exempt stationary sources will be



1 covered under Subchapter 42 and they will  
2 likely be smaller sources. The Department  
3 determined that the threshold of  
4 acceptability that is applicable to the  
5 sources that are covered by federal  
6 standards should be consistent for the  
7 smaller sources, as well. It levels the  
8 playing field, treating larger and smaller  
9 sources the same.

10 The additional changes made to the  
11 proposed appendix are that the MAACs are  
12 now presented in parts per billion units  
13 instead of parts per million, as well as  
14 micrograms per cubic meter. Hydrazine has  
15 been removed because reliable monitoring  
16 methods have not yet been established.

17 Included in the Council's packet  
18 were revised MAAC substance summaries.  
19 This information is not a part of the rule,  
20 but is provided as supporting technical  
21 information. Minor changes were made to  
22 the summaries to reflect changes made in  
23 Appendix O. The purpose of the substance  
24 summaries were -- it provides some of the  
25 background on the decisions that were made



1 and brings in existing information and  
2 relates it to what we currently have in  
3 Subchapter 41. Also, additional monitoring  
4 information was added for each metal.

5           Recently, I provided Dr. Lynch  
6 copies of some analysis of air toxics  
7 monitoring data division staff had done.  
8 He thought this information may be of  
9 interest to the Council and the public.  
10 And as this information includes data and  
11 charts, I have prepared a PowerPoint  
12 presentation. Copies of the slides have  
13 been distributed to the Council and copies  
14 were also made available to the public and  
15 are found on the sign-in table.

16                           (Power Point Presentation)

17           MS. BRADLEY: Air toxics  
18 monitoring data. Where did we get it?  
19 Almost all the data analyzed was downloaded  
20 from EPA's air quality system. You, too,  
21 can have access to this information if you  
22 wish to. The only data that was a little  
23 bit more difficult to obtain was the  
24 ammonia data. Ammonia doesn't fit in any  
25 one box. It's not a criteria pollutant,



1 it's not a HAP, it's a PM 2.5 precursor, so  
2 EPA hasn't put it in a nice little box yet,  
3 so our monitoring folks obtain the data for  
4 us, we re-entered it, and if you are  
5 interested in the ammonia data, we  
6 certainly can get that to you, as well.

7           We were able to obtain data for all  
8 the substances on Appendix O. I have to  
9 qualify that, though, in that we obtain  
10 total chromium data, not hexavalent  
11 chromium data. Hexavalent chromium data is  
12 being collected, but it's just not posted  
13 in a separate category.

14           Next slide, please. Well, why am I  
15 bringing up monitoring data when we're  
16 talking about rulemaking? Well, while the  
17 proposed MAACs will be based on human  
18 health effects, monitoring data is relevant  
19 because we feel like the information I'm  
20 going to provide, supports the need for  
21 rulemaking. I'll use Scott's quote here,  
22 monitoring data is real world. It's not a  
23 model that may not account for everything,  
24 that may over estimate. And when it comes  
25 right down to it, monitoring data is more



1 accepted than modeling. People are more  
2 comfortable with it. It has limitations.  
3 You need to monitor in the correct  
4 location. You need to monitor for the  
5 right things, but it's still more  
6 acceptable (inaudible).

7           We didn't do the entire United  
8 States and I'm using "we" loosely. I must  
9 credit a lot of this hard work to Morris  
10 Moffet, who is not here today. But Morris  
11 worked very closely with me and did a great  
12 job on these charts.

13           Region VI states were included in  
14 the data. We also thought we would include  
15 states that were on our borders: Kansas,  
16 Colorado and Missouri. We looked at 2003  
17 data and we lumped together different  
18 monitoring analytical methods. So we may  
19 have dissimilar information, but we sort of  
20 -- we lumped them together.

21           Also, while the information is not -  
22 - these charts and the spreadsheets are not  
23 available on our website today, they will  
24 be by next Monday. And so all of that is  
25 to say, this is not research or publication



1 quality.

2 I am only going to present  
3 information for five substances. These  
4 substances seem to be the key substances of  
5 (inaudible - coughing) we get more comments  
6 about them, they seem to provide the  
7 greatest regulatory challenges. Those  
8 substances are ammonia, arsenic, benzene,  
9 1,3-butadiene and formaldehyde. Next  
10 slide.

11 Now, we are proposing an ammonia  
12 standard of 2,500 parts per billion. And  
13 you'll notice the little text box here that  
14 says the proposed MAAC value of 2,500 parts  
15 per billion would be a bar over 16 pages  
16 tall. The monitored values are the values  
17 at the bottom. There's been a lot of  
18 discussion about the proposed value being  
19 too tight. On average we have heard from  
20 the CENSARA states that values range about  
21 three parts per billion. I have looked at  
22 some of the monitoring data, so it is  
23 anticipated that we may have concentrations  
24 of outside impacts that exceed the 144  
25 parts per billion. But at present, we are



1 re-proposing 2,500 parts per billion as a  
2 standard. Next slide.

3           Arsenic. There is a blue line at  
4 .02 micrograms per cubic meter. The red  
5 line represents .002 micrograms per cubic  
6 meter and then the black line at the bottom  
7 is .0002 micrograms per cubic meter. The  
8 standard proposed today is the blue line.  
9 The 10 to the minus 4 level. As you will  
10 notice, there are some blue bars which  
11 represent the first or the maximums  
12 monitored at specific sites that may  
13 actually exceed, but we have no average  
14 values currently being recorded that exceed  
15 the proposed MAAC, .02 micrograms per cubic  
16 meter.

17           DR. LYNCH: Can I ask you a quick  
18 question on these monitors? These are  
19 ambient monitoring stations or do you know?

20           MS. BRADLEY: They were ambient  
21 monitoring stations. The express purpose  
22 for sighting them is not always clear from  
23 the information. Some of them may be  
24 baseline and that was part of the qualifier  
25 and I should have stated that. But they



1 are all ambient monitoring as opposed to  
2 for specific.

3 MR. BRANECKY: Cheryl, the  
4 Appendix O lists arsenic compound, this is  
5 arsenic, is it -- are they the same thing?

6 MS. BRADLEY: Yes, it is. The  
7 method is used in the analysis and  
8 collection may be slightly different than  
9 what we would implement in Oklahoma. It  
10 goes back to -- well, the compounds that  
11 are being measured are measured as arsenic,  
12 so it would be equivalent to what we are  
13 proposing, so is that your question?

14 MR. BRANECKY: Yes. I didn't  
15 understand, you had arsenic compounds in  
16 Appendix O, this is just arsenic. I didn't  
17 know if they were the same.

18 MS. BRADLEY: Okay. Excuse me.  
19 Arsenic is arsenic compounds, so we take --  
20 the analysis method will take all forms of  
21 arsenic and equate only the arsenic  
22 component, that's why we listed arsenic  
23 compounds because it actually represents  
24 many different species of arsenic, but the  
25 standard is the comparison of the amount of



1 arsenic that's in all (inaudible). We  
2 haven't been uniform in the way that we've  
3 labeled the bottom of the charts, nor are  
4 all labels on the chart that go with the  
5 bars. The bars mean more than the labels  
6 at the bottom for the actual locations.  
7 But the spreadsheets that will be available  
8 will have the details. Next slide, please.

9 Benzene. Benzene is probably the  
10 greatest regulatory challenge that the  
11 state can take on in the realm of air  
12 toxics and I believe it's a national  
13 challenge. Again, the blue bars represent  
14 the maximums, the red bars are the  
15 means. The blue horizontal line 10 parts  
16 per billion is what is being proposed as  
17 the MAAC in benzene. It is very likely  
18 that we will monitor concentrations that  
19 exceed the proposed standard. Background  
20 concentrations are high for benzene and at  
21 this time, there is not a national standard  
22 being proposed by EPA NAAQs, but in  
23 gathering the additional information, it  
24 will support EPA's efforts in coming up  
25 with a more workable solution. A large



1 percentage of benzene emissions are  
2 attributable to mobile sources.

3 MR. BRANECKY: Do we have a -- is  
4 transport an issue with benzene, because  
5 it s transport over long distances?

6 MS. BRADLEY: Yes.

7 MR. BRANECKY: So some of the  
8 problems we have in Oklahoma may be caused  
9 by other states?

10 MS. BRADLEY: Yes. Very good  
11 comment. I don't think that we have a good  
12 model of the problem. It's everywhere,  
13 whether you live in an isolated area or you  
14 live in an urban setting.

15 MR. TERRILL: Let me say, this is  
16 -- if you all had passed the rule as we  
17 proposed it last time, we would have had  
18 the whole state being declared, if we  
19 followed our own rule, as an area of  
20 concern for benzene. And this is a very  
21 good reason why EPA needs to address this  
22 nationally. This is a NAAQs problem. This  
23 is a national ambient air quality problem  
24 that you can see just from the data that's  
25 been gathered. So the way I would view



1 benzene is raising public awareness about  
2 exposure, not necessarily that we're going  
3 to be able to do anything about it, but we  
4 can't ignore it. We can't just not have a  
5 standard just because there is no way to  
6 get at this. This is part of living in an  
7 industrialized society where we want to be  
8 able to go where we want to, when we want  
9 to, how we want to and that's just part of  
10 the trade-off and part of our rule is going  
11 to reflect that. We're going to have  
12 things that we cannot probably control  
13 because it's a society issue. But I think  
14 it will raise the awareness of what  
15 people's exposures are and maybe start the  
16 dialogue as to what the -- what we want to  
17 do about it, if anything. It may just be  
18 the trade-off that we have -- this exposure  
19 is the trade-off that we have for the  
20 things we enjoy and the lifestyle we like  
21 to have. But I think that folks need to be  
22 aware that these monitoring values are out  
23 there. So to say we're going to go out and  
24 declare large areas of the state as areas  
25 of concern, it's not going to happen



1 because there's nothing we can do about it  
2 short of a national fix and that needs to  
3 be -- that's a political issue that's going  
4 to have to be discussed. But I think for  
5 us not to address it in some form or  
6 fashion, we wouldn't be doing our job,  
7 either.

8 MR. BRANECKY: But if you have --  
9 if we set the level at 10 and we have a  
10 problem, are you going to require  
11 stationary sources to reduce even though  
12 that may not solve the problem?

13 MR. TERRILL: I don't know that  
14 we would do that. That would be part of  
15 the dialogue we would have with the  
16 community. It doesn't make a lot of sense  
17 to me, unless we're -- unless we're able to  
18 -- unless there is some reason that that  
19 benzene level was so high that we need to  
20 do something to try to drive that down so  
21 that the risks that the neighborhood is  
22 being exposed to becomes more acceptable,  
23 if you will. But that's just part of the  
24 dialogue that I think we have to have with  
25 the community and with the affected



1 industry. We could have benzene levels  
2 that strike at the very top up there and  
3 from the modeling and from the work that  
4 we've done, we believe if we control these  
5 stationary sources we can drive it down  
6 closer to the standard, that might be  
7 worthwhile. If you remove that and it's  
8 not going to drop it at all, then just make  
9 the community aware that we've got these  
10 issues, it's a background problem and  
11 there's nothing we can do to control it.  
12 It doesn't make any sense to require  
13 someone to control it unless it's going to  
14 affect the problem.

15 MS. MYERS: Eddie, what level of  
16 assurance will DEQ provide to the community  
17 for facilities that have been there for --  
18 this data, if for some reason they should  
19 have some of these compounds and you  
20 trigger an area of concern? If you have  
21 people living under or around an industrial  
22 facility and the town has grown up to it,  
23 which is in a number of places in Oklahoma,  
24 and you find that some of these levels are  
25 not achievable, nobody's died in the 100



1 years that they've lived right directly  
2 under it, what level of comfort can you  
3 offer to the community once it s been  
4 stirred up?

5 MR. TERRILL: And that's probably  
6 the biggest challenge of this whole  
7 exercise in going through and trying to  
8 develop this state rule, is how do you  
9 communicate the risk to the community in an  
10 area that you can't do anything about.

11 MS. MYERS: I would question  
12 whether it was truly a risk, if they've  
13 been living with it for 75 or 100 years.

14 MR. TERRILL: Well, but there's  
15 data that says that these levels, there is  
16 a risk and who's to say unless you went in  
17 and did a house-by-house analysis of the  
18 health affects that those people have --  
19 plus you have people moving in and out of  
20 the neighborhoods and it would be very  
21 difficult to categorically say that  
22 nobody's ever been affected by it, I would  
23 think. But that's the purpose of having a  
24 risk level that you work from, is to try to  
25 be real world , as Scott put it, and try



1 to come up with a level that more reflects  
2 to some degree, a protection of public  
3 health, but also provides that buffer, if  
4 you will, for the way our society has  
5 developed. I don't know --

6 MS. MYERS: Let me play devil's  
7 advocate. There is documentation that  
8 indoor air pollution can be more hazardous  
9 than ambient air pollution. And if you  
10 have somebody, whatever, a disgruntled  
11 employee, whatever it may be, come and  
12 complain about something coming out of a  
13 stationary source, is your involvement in  
14 protecting the public health, going to  
15 investigate whether that person smokes 40  
16 packs of cigarettes a week or does some  
17 other -- you know, if they weld in their  
18 garage shop on a regular basis, is it going  
19 to investigate anything like that or is it  
20 all going to be focused on a stationary  
21 source?

22 MR. TERRILL: Well, it's going to  
23 be focused on whatever the monitoring data  
24 shows it to be. I mean, I don't think we  
25 can go to that kind of extreme of



1 investigating whether or not this person  
2 really has the health problems they say  
3 they've got. We get a lot of complaints  
4 that are basically odor complaints that the  
5 people believe they've got all kinds of  
6 health problems and it's not physically  
7 possible, based on the chemicals that we  
8 believe are causing it but they do have a  
9 heck of an odor problem. So, no, it's  
10 going to be driven strictly by the  
11 monitored data that we get or it could be  
12 we don't even have to monitor. We may be  
13 able to look and do the modeling and say,  
14 there's just no way, given the data we've  
15 got and the industry that's there, that it  
16 could be a level that would rise to the  
17 concern that we've got in our rule and that  
18 would be the end of it.

19 MS. BRADLEY: In this case, we  
20 were establishing or making a risk  
21 management decision.

22 MR. TERRILL: And it goes back --  
23 it really goes back to what I said from the  
24 very beginning about this rule. It's not  
25 in our, as a Division, as an Agency s, best



1 interest to create a rule where we don't  
2 bear the burden, bear the responsibility of  
3 very careful consideration of all the data  
4 before we move forward. Because at the end  
5 of the day, once the issue's been raised,  
6 it's on us to figure it out. It's our  
7 fault. If it doesn't get fixed, it's our  
8 fault. If it does get fixed, and the  
9 industry goes out of business, it's our  
10 fault. So it would be a lot easier for us  
11 not to do anything with this, just keep  
12 what we got. But I really think that what  
13 we've come up with is a balance of a start  
14 to have a rule that we believe can evolve  
15 as EPA's movement in the toxics area  
16 evolves, and provides a basis for what we  
17 want in the realm of toxics in Oklahoma.  
18 But it's not going to be without some  
19 amount of pain for us, more than anything  
20 else, because at the end of the day we're  
21 the ones that are responsible for either  
22 this rule succeeding or failing and there's  
23 going to be a lot of times where both  
24 parties are not going to be happy, the  
25 community or the citizens and that's just



1 the way it is. That's part of the burden  
2 we have of doing this.

3 Yes, sir, you got a question?

4 MR. SMITH: Can you give some  
5 examples of what kind of industries cause  
6 this?

7 MS. BRADLEY: With regard to  
8 (inaudible due to coughing)? Mobile  
9 source, cars, automobiles. Lifestyle and  
10 automobiles. And as part of the process --

11 MR. SMITH: Lifestyle and  
12 automobiles or lifestyle in automobiles?

13 MS. BRADLEY: Lifestyle, what you  
14 use in your backyard, mowing your lawn, you  
15 may refinish furniture in your garage, you  
16 may use convenience chemicals because  
17 benzene is a ubiquitous material in a lot  
18 of hydrocarbons. It is an organic solvent.  
19 You're just going to find it in a lot of  
20 materials.

21 MR. TERRILL: Service stations.

22 MS. BRADLEY: Service stations.  
23 Probably service stations will be  
24 combustion of fuels in automobiles and  
25 service stations in a local community



1 should account for the greatest source of  
2 benzene, unless you happen to have a large  
3 industrial source.

4 MR. SMITH: Oklahoma has less  
5 controls on the pump, when cars are being  
6 filled up.

7 MS. BRADLEY: We do not have  
8 second stage. We have stage one in certain  
9 areas. What we have found is that with the  
10 changes that have been proposed by the EPA  
11 on automobiles is that they need vapor  
12 collection controls, that it is not cost  
13 effective to put the second stage vapor  
14 recovery on the refueling. That has not  
15 tended to be an effective way of  
16 controlling benzene emissions.

17 MR. TERRILL: And that was driven  
18 by the ozone problem. If we had an ozone  
19 problem in either Tulsa or Oklahoma City or  
20 any part of the state, then we would  
21 probably have gone to the state's vapor  
22 recovery. But because we don't, that's  
23 really what's driving that, not the toxics  
24 issue.

25 MR. SMITH: What about dry



1 cleaning establishments?

2 MS. BRADLEY: Dry cleaning  
3 establishments don't use benzene. They  
4 normally have used some type of chlorinated  
5 solvent, some of them have gone to a water-  
6 based solvent. There is a federal standard  
7 that's applicable to dry cleaners and  
8 essentially it requires a closed system.  
9 So dry cleaners have been addressed.

10 MR. SMITH: So the emissions from  
11 automobiles, are chemicals naturally in the  
12 gasoline and not the fuel additive?

13 MR. TERRILL: It's additive.

14 MS. BRADLEY: It's part of the  
15 mixture. There are experts that know far  
16 more about fuels than I do, here. The  
17 range of benzene content will vary based on  
18 the crude source. And EPA has done some  
19 work on the content of benzene in various  
20 gasolines. Also, the combustion process is  
21 not totally efficient. You're going to  
22 have some loss leaks from the system and  
23 also some fuel that's not burned, so it  
24 will pass on through. And so benzene is in  
25 the fuel.



1                   MR. SMITH: Isn't benzene part of  
2 the (inaudible)?

3                   MS. BRADLEY: It's there, right.

4                   MR. WILSON: I don't think it's  
5 added. Maybe some of the oil companies add  
6 it, but I don't think so. It's too  
7 expensive to add.

8                   DR. LYNCH: How much benzene is  
9 in gas?

10                  DR. SHEEDY: Less than two  
11 percent.

12                  MR. WILSON: Two to three  
13 percent.

14                  MR. SMITH: Thank you.

15                  MS. BRADLEY: I think -- well,  
16 this rule requires us to say the source of  
17 this substance is X mobile sources,  
18 stationary sources, et cetera. We will not  
19 have a lot of control over mobile sources.  
20 We have no regulatory oversights. However,  
21 the information could change local  
22 planning. It could require placement of a  
23 gasoline station or a service station not  
24 next to a school. Maybe it will be  
25 (inaudible) to relieve traffic congestion



1 in areas. So as an added benefit to ozone  
2 control, traffic streamlining will also  
3 address the HAPS issue with TACs.

4 MS. BARTON: Can I ask a  
5 question?

6 MS. BRADLEY: Sure.

7 MS. BARTON: Nadine Barton. On  
8 benzene, after it's emitted into the air by  
9 a mobile source, say that you're living  
10 next to a highway, is that an accumulative  
11 effect in the soil or how is it dispersed  
12 in its final resting place? You know, or  
13 is it just an air contaminant at the time  
14 the emissions occur? Is there any studies  
15 on that on where it goes or what happens to  
16 it?

17 MS. BRADLEY: Benzene is not a  
18 highly reactive material, although it's  
19 going to more reactive in the atmosphere  
20 than in the soil or in water. It's going  
21 to move in the parcels of air. If you live  
22 near a congested area, your exposure will  
23 be greater.

24 MS. BARTON: It's all a  
25 respiratory inhalation situation for



1 children or anybody that lives near a  
2 congested area, on a forever-basis?

3 MS. BRADLEY: Yes, for the most  
4 part. Because most people are on water  
5 systems that --

6 (Inaudible comment)

7 MS. BRADLEY: Yes. Water is not  
8 going to be a large contributor if you have  
9 a congested area. They're probably on a  
10 public water system. So that water is  
11 being monitored for benzene content and a  
12 whole load of -- lists of other compounds.  
13 So the exposure will primarily be through  
14 inhalation. There may be some secondary  
15 exposure, but inhalation would be the  
16 largest.

17 MS. BARTON: Plants don't take  
18 that well, do they?

19 MS. BRADLEY: It's not an  
20 accumulating compound. Most of the metals  
21 are more of an issue with the plants than  
22 consumption of those plants. Next slide,  
23 please.

24 1,3-butadiene. The 10 to the minus  
25 4 level, one parts per billion that's being



1 proposed is at the very bottom of the  
2 chart. Some of the MAACs -- I mean of the  
3 means, approach or are slightly over that.  
4 There have been numerous instances where  
5 the first MAACs value has exceeded what we  
6 are currently proposing.

7 MR. WILSON: Cheryl, couldn't you  
8 be sued to enforce this regulation? Once  
9 you pass it, somebody could say, wait a  
10 minute, you've got to enforce this thing.

11 MS. BRADLEY: And I will defer to  
12 legal counsel for that.

13 MR. TERRILL: To me? Well, it's  
14 up to us to make the determination as to  
15 whether or not we could move forward on any  
16 type of a complaint or whatever it would be  
17 that would drive us to take a look at it.  
18 I guess theoretically, you could get sued  
19 but if we've demonstrated that there is  
20 nothing that can be done in that area to  
21 get the levels, the background levels to  
22 the proposed standard -- again, it goes  
23 back to, are you better not to address it  
24 at all or are you better to address it in  
25 such a manner that you make the public



1 aware of what they're exposed to.

2           And I think it's our responsibility  
3 to err on the side of making folks aware of  
4 what they're exposed to, then they can make  
5 -- the community makes their own decisions  
6 as to what, if anything, they want to do  
7 about it. But that's a valid question,  
8 Joel, that's a very valid question. And  
9 beyond setting a level that is just not  
10 realistic, based on what we believe our  
11 research of the data says the level should  
12 be, I don't know of anything else to do.  
13 But you've got a good point.

14           And I'm sure at some point there is  
15 going to be someone that says, you know,  
16 for whatever reason, they want to be bought  
17 out, they don't -- for whatever reason,  
18 they're going to say you guys need to help  
19 me do that. They won't say that, but what  
20 they really mean, you guys need to help me  
21 do that and I'm going to sue you to enforce  
22 your own rule.

23           And that's going on in Texas right  
24 now. I sent out copies to the Council, a  
25 series of articles that was done in the



1 Houston area where the State of Texas had  
2 their own state rule that they basically  
3 ignored. But what they didn't do is, they  
4 didn't do any community outreach. The  
5 community was aware of what they were being  
6 exposed to. But what I think they objected  
7 to was nobody seemed -- everybody seemed to  
8 say, well, it's not an issue. Well, yes,  
9 it is an issue. And what you do is, you do  
10 the best you can in educating the folks and  
11 if there's -- again, it's a community  
12 problem and you try to work with the  
13 community leaders and try to come up with  
14 solutions. But there just may not be any  
15 in some cases.

16 MR. WILSON: But Eddie, it seems  
17 to me like, you know, passing a rule that  
18 you really cannot meet is a very high price  
19 to pay just to communicate the concern to  
20 people.

21 MR. TERRILL: But there may be  
22 areas though, where we do have a problem  
23 that you can address or at least you can  
24 address it to where it reduces the risk  
25 from, say, the top level down to the middle



1 of it. You know, a risk is just that, it's  
2 a risk. And if you can reduce that and  
3 reduce that exposure, then I think you've  
4 done at least some good from a public  
5 health standpoint.

6 It's either do this or not have one  
7 at all. And I just don't believe it's not  
8 -- I believe our responsibility is to  
9 propose it.

10 MS. BRADLEY: There's one value  
11 on that chart -- if you'll look for  
12 Oklahoma, it's over on the right-hand side.  
13 We've had some maximum values that exceed  
14 it but the average is currently in  
15 compliance.

16 MR. TERRILL: And you've got to  
17 realize, too, that most of this data is  
18 Texas and Louisiana. It's down in that  
19 corridor where they've got a heavy  
20 concentration of chemical plants and those  
21 sort of things. And so you're not --  
22 you're obviously going to get a lot more  
23 exposure than we're probably going to get  
24 here in Oklahoma.

25 MR. BRANECKY: Is that one



1 location?

2 MS. BRADLEY: That was one  
3 location and Ponca City.

4 MR. WILSON: This is high traffic  
5 areas.

6 MR. TERRILL: That, too.

7 MR. WILSON: This is mobile  
8 sources. And really, there's -- if you've  
9 made no attempt to distinguish between, you  
10 know, where the sample is taken, whether it  
11 was taken in an industrial park or at an  
12 intersection, you really can't make those  
13 statements, you know, about what's causing  
14 this.

15 MR. TERRILL: Well, that's true.  
16 And we weren't trying to -- all we were  
17 trying to do here was be up-front with the  
18 Council and the public about where we were  
19 setting these levels. That's all this is  
20 designed to do. It's not meant to be any  
21 kind of a statement about anybody's air  
22 quality. This is just -- this is where  
23 we're setting the levels of what some of  
24 the monitoring values in the neighboring  
25 states are shown to be so that we don't



1 represent that this is going to be  
2 something that's going to be a cure-all for  
3 Oklahoma, because it may or may not be.  
4 But that's all this is designed to do, is  
5 give you all a sense of the most extreme  
6 cases and try to be honest with you about  
7 where we're setting these levels. That's  
8 all this is designed to do.

9 MS. BRADLEY: And this is not the  
10 only information that's available to the  
11 public. EPA is doing national air toxics  
12 assessments now and what we have found --  
13 that's based solely on modeling with some  
14 real data. We need some grounding and  
15 reality. Do we have a problem in Oklahoma  
16 or is the assessment that EPA does on such  
17 a broad scale, suitable, and should be  
18 taken as the primary basis for establishing  
19 our priorities. And in the past, the  
20 Council has wished to weigh in and make  
21 some tough decisions about state  
22 priorities.

23 MR. TERRILL: Another reason for  
24 including this is, that the community-based  
25 program that EPA is really pushing, they've



1 gone out and they've started making grants  
2 available to communities and other entities  
3 that might want to establish some sort of a  
4 toxics--type -- it's not really  
5 establishing a program, it's designed to  
6 gather data and then force somebody else to  
7 establish a program. And one of the things  
8 that they will -- everybody wants to look  
9 at are benzene and 1,3-butadiene. So we  
10 have got to include these in our rule. I  
11 just think if we don't, then we're asking  
12 for -- I would just as soon not have a rule  
13 if we're not going to have these in there,  
14 because we're really not addressing all the  
15 concerns that are out there in the  
16 communities. And eventually somebody here  
17 in Oklahoma is going to get one of these  
18 grants and they're going to gather this  
19 data and it will be our responsibility to  
20 figure out what it is. So again, this is  
21 not designed to show where anything -- but  
22 just to give an example of some of the  
23 monitored data that's out there and how it  
24 compare to what we believe our standard  
25 needs to be.



1                   MS. BRADLEY:   Next slide, please.  
2   Formaldehyde.   The level proposed is marked  
3   in blue line, again, 7 parts per billion.  
4   That represents the one in 10,000 risk  
5   level.   There have been values monitored  
6   that exceed -- the first MAACs exceed.   For  
7   the most part, the averages fall below what  
8   we're proposing.

9                   Next slide.   We have presented this  
10   information because monitoring is a large  
11   component of Subchapter 42 and we felt we  
12   needed to share real life, real world data  
13   with the Council.   We also feel that the  
14   proposed -- it also substantiates that the  
15   proposed MAACs are reasonable.   There are  
16   challenges, we just discussed those.   1,3-  
17   butadiene, benzene and possibly even  
18   arsenic.   It also demonstrates that some  
19   toxics are a regional and national problem.  
20   And Oklahoma has an opportunity to weigh in  
21   and present information to address these  
22   and to show that we need EPA's help in  
23   addressing these problems.

24                   MR. WILSON:   Cheryl, why don't we  
25   just leave the arsenic, the 1,3-butadiene



1 and benzene with the EPA. I mean, if it's  
2 a national problem, where are they at?  
3 They've got the authority to propose and  
4 pass rules.

5 MS. BRADLEY: They have, but they  
6 haven't done it.

7 MR. WILSON: Well, if they  
8 haven't done it, it must not be important  
9 to them. Wouldn't that be the natural --

10 MS. BRADLEY: Actually, I think  
11 they're working in the opposite direction.  
12 They're funding states community efforts  
13 for assessment and to deal with the  
14 problem.

15 MR. WILSON: But it's a national  
16 issue.

17 MS. BRADLEY: It's a national  
18 issue. However, it's a community problem.  
19 It's --

20 MR. WILSON: Every pollutant  
21 that's emitted ends up as a community  
22 problem, doesn't it?

23 MS. BRADLEY: Not all  
24 communities. Now, benzene, probably, yes.  
25 1,3-butadiene may or may not be.



1                   MR. WILSON:    It looks like to me  
2   it's a pretty wide-set problem.

3                   MS. BRADLEY:   It was being  
4   monitored in areas that are primarily  
5   petrochemical corridor in the nation.    You  
6   saw a lot of those in Louisiana and Texas.  
7   We don't have the petrochemical mix and  
8   1,3-butadiene --

9                   MR. WILSON:    It's a combustion  
10   product.

11                  MS. BRADLEY:   It's a combustion  
12   product, but to a lesser extent.

13   DR. LYNCH:     Joel, I guess the other side of  
14   that is, to who do we want to say no.    It s  
15   too big a problem for us and we know it's  
16   out there, so we're just not going to --

17                  DR. WILSON:    But EPA's got the  
18   authority to protect public health.    They  
19   have the ability to write rules.    They can  
20   go through the due process of rulemaking  
21   and they can post rules nationwide like  
22   they do for so many other pollutants.    And  
23   I want to know why they're not doing it.

24                  MS. BRADLEY:   And I would sort of  
25   like to go on to say, if we monitor, we'll



1 monitor for 1,3-butadiene and we will  
2 monitor for benzene. If we don't have a  
3 rule to address, that gives us a process,  
4 the information is still going to be  
5 available to the public. I'm still going  
6 to say this is what the levels are and this  
7 equates to this risk level in your  
8 community, for this substance. Would we  
9 rather not have the rule on the books and  
10 be faced with dealing with the challenge or  
11 would we rather have the rule on the books  
12 with a standard and a process that the  
13 public feels like they can go through in  
14 order to resolve the problem?

15 MS. BOTCHLETT--SMITH: Do we have  
16 any other questions from the Council about  
17 41, 42 or Appendix O?

18 DR. LYNCH: I would just like to  
19 make one other comment on drinking water  
20 standards, you used a 10 to the minus 6  
21 risk level. These are considerably more  
22 literal (inaudible). Less stringent, how's  
23 that. And we do have other things we  
24 monitor for toxics in drinking water, but  
25 last time I checked, I think we had to



1 monitor 132 some-odd compounds in drinking  
2 water. This is a pretty short list  
3 compared to that.

4 MR. TERRILL: Let me go back and  
5 talk just a little bit just about -- just  
6 to go back to Joel's question, because that  
7 really is -- we could talk about the  
8 philosophical aspects of this all day and  
9 it's kind of interesting. It's kind of  
10 frustrating, too. But if we want to have a  
11 place at the table to try to persuade EPA  
12 to allocate their resources to do the  
13 things that they ought to be doing, the  
14 only way we can do that is to have a  
15 program that they respect and have the  
16 expertise that they respect. Because the  
17 politics of this whole issue around benzene  
18 is such that they are not going to do  
19 anything with it until they absolutely have  
20 to. And I don't know that I blame them  
21 because the way things are right now, their  
22 budget gets cut and it gets passed down.  
23 And so they're having to figure out what do  
24 they do to keep their core things together  
25 without making so many people mad in so



1 many areas that they get hammered when they  
2 go up on the hill for their budget. But at  
3 the end of the day, their responsibility is  
4 just like ours, to protect public health.  
5 And until they have the states pushing them  
6 to do that, they're not going to do it.  
7 And so that's what I would hope that we  
8 would also gain out of this, is a program  
9 that they respect, where they start  
10 listening to us and the voices of states  
11 like us who say you need to address -- for  
12 one thing, you need to figure out, is this  
13 a national public health problem or is it  
14 not? And if it is, address it and if it's  
15 not, then say so. And stop this raising  
16 public awareness, if you will, for an issue  
17 that doesn't exist. And they are willfully  
18 lacking, I think, on research to get there.  
19 But that's part of this, too. EPA has  
20 asked us about the possibility about this  
21 rule that we haven't even passed yet, being  
22 a model for other states. Whether or not  
23 they'll do that, I don't know, but I was  
24 kind of impressed that they would even take  
25 a look at a rule that hadn't even made it



1 out of the Council yet because they liked  
2 the concept as a way to look at these  
3 issues. And getting a public dialogue  
4 started is not necessarily a bad thing. It  
5 makes us decide what's important and what's  
6 not and focus our resources on those the  
7 public that thinks are important.

8 MS. MYERS: I've got a question  
9 on the monitoring capabilities. Do you  
10 have, or does there exist, monitors that  
11 are capable of detecting at those levels  
12 that are being proposed?

13 MS. BRADLEY: Yes.

14 MS. MYERS: Okay.

15 MS. BRADLEY: It was one of the  
16 criteria that is applied in the rule and we  
17 went through -- we are actually collecting  
18 some of the data to meet the data standards  
19 on the Ponca City study and for the  
20 remainder, primarily metals, we went  
21 through and determined. The collection of  
22 sampling is available, as well as the  
23 analytical.

24 MS. MYERS: Okay.

25 MS. BOTCHLETT--SMITH: Okay. I



1 have three people that have given me a  
2 notice of oral comment.

3           Nadine Barton with CASE. Could you  
4 please step to the podium for your comment?

5           MS. BARTON: My name is Nadine  
6 Barton and I'm with CASE, Citizens Action  
7 for a Safe Environment. For those that are  
8 new and you don't know who the heck is  
9 CASE, we are the only successful legal  
10 intervener to stop a nuclear plant from  
11 being built in Tulsa. And I would also  
12 like to inform you that I am a member of  
13 the Radiation Council now, which seems  
14 appropriate, so we can all relax.

15           I would like to welcome, first of  
16 all, this new member, Laura, and I'm glad  
17 to see another woman there and I'm sure  
18 Sharon is, too.

19           Anyway, let's get down to the  
20 comments here. You know, while we still  
21 have this deal about benzene fresh in our  
22 minds and about lawsuits, since we were a  
23 successful intervener after 10 years in  
24 court and half a million dollars, it would  
25 seem logical that we should apply for a



1 grant to study but I don't think you have  
2 to worry about that at this time.

3           And I would like to say, too, that  
4 unless it comes from a city, from a grant,  
5 unless you have dead bodies and an affected  
6 populous, it's going to be a remote  
7 possibility of a lawsuit regarding the  
8 passing of this rule, which includes these  
9 air toxics that we've talked about today.

10           Just looking at it from a legal  
11 perspective from a citizen, I think that if  
12 you went to Court, the fact that you did  
13 attempt, in good faith, to address this  
14 situation and with the comments that Eddie  
15 made about the fact that EPA is looking to  
16 us possibly addressing this now as a  
17 proactive means of addressing the issue,  
18 like we did in ozone, and we do have a  
19 reputation there of leading the pack on  
20 that issue, that it behooves us to really  
21 pass this.

22           Now, if you don't, let's just take  
23 the other stance. Okay, EPA, it's not  
24 important that we pass this because they're  
25 not addressing it -- blah, blah, blah -- we



1 had this meeting today, we have the record  
2 of this meeting today, I think that it  
3 looks bad for you, just from a citizen  
4 standpoint. And I think this is way in the  
5 future if there is some kind of suit that's  
6 generated. There is so much involved in  
7 the citizenry getting together and doing  
8 that. Like I said, this has to come from  
9 really a municipality or a city of some  
10 kind to really pursue the suit, that it's  
11 highly unlikely. So I just want to  
12 reassure you, I'm not privy to the  
13 information that you received about  
14 Houston. I don't know what the  
15 ramifications of that legal action stem  
16 from, but I just think that it looks better  
17 for us. We have a good reputation. You  
18 folks are proactive. I liked some of the  
19 comments that I've heard in recognizing  
20 that, you know, you're looking out for the  
21 public interest and the public health  
22 issue. And that says a lot about the  
23 Council and the DEQ. So that's all I'm  
24 going to say about that.

25                   It's the old thing -- I'm going to



1 go back to the fees again. And I would  
2 like to ask a question, and who can answer  
3 this question, how our present fee looks in  
4 comparison to our neighbors in Region VI?  
5 Are we way above or way below the average  
6 on per ton each year?

7 MR. TERRILL: You mean Title V?

8 MS. BARTON: Yes.

9 MR. TERRILL: We're about even  
10 with Arkansas. We're less than Louisiana,  
11 Texas, about the same as New Mexico.

12 MS. BARTON: So we're not really  
13 -- we're right in the ballpark instead of  
14 being really low instead of being really  
15 low -- like in the past?

16 MR. TERRILL: You know, you only  
17 need the money that you need. And so, you  
18 know, if I had \$50 a ton, you can always  
19 figure out ways to spend it. But is it  
20 spending it wisely? That's debatable. You  
21 know, I figured if it's important enough  
22 for us to do it, then I'll come to the  
23 Council, say here's what we want to do and  
24 here's why we want to do it. So I'm pretty  
25 well pleased with where we are.



1                   MYERS:    Another thing, Nadine, if  
2   there's excess money in the fund, the  
3   legislature will take it and use it for  
4   other things.

5                   MS. BARTON:   We love that, don't  
6   we?

7                   MS. MYERS:    No.

8                   MS. BARTON:    Just like solid  
9   waste loves it.

10                  I want to talk about now about the  
11   toxics themselves in Chapter -- Subchapter  
12   41.   And this is 252:100-41-43, and that's  
13   about the exemptions.   And probably all I'm  
14   going to need is some clarification on  
15   this, that these exemptions are probably  
16   addressed in other areas.   And it states in  
17   some of the areas about, this part does not  
18   apply to the following, any pollutants for  
19   which Oklahoma Air Quality, primary  
20   secondary standard exists and has been set  
21   forth under, and then it sites it to the  
22   extent of the criteria for which is listed  
23   below or application of pesticides and  
24   fertilizers or any source operation where  
25   an emissions standard is in effect under



1 this.

2 Do we have some kind of rule that  
3 addresses such as the fertilizer  
4 manufacturer up there in Catoosa for air  
5 toxics for the emission of ammonia?

6 MS. BRADLEY: This is Cheryl  
7 Bradley. Nadine, the portion that you're  
8 referring to for the exemptions, will be,  
9 Subchapter 42 in the new program. This  
10 implies those rules will be superseded, so  
11 the exemptions will be no more. The  
12 exemptions were not carried over in to this  
13 42.

14 MS. BARTON: Okay. That goes for  
15 radioactivity, also? Or you don't even  
16 address that because it's under NRC rules?

17 MS. BRADLEY: Correct. Those are  
18 addressed by another division of the  
19 Department of Environmental Quality. We  
20 did not assume authority for the  
21 radionuclide NESHAPS under Part 61.

22 MS. BARTON: Okay. And the other  
23 issue of being on that air toxics  
24 committee, when we were looking at category  
25 C for low toxicity in the de minimis



1 amounts and you have them all categorized  
2 A, B and C here and one of our main  
3 concerns was the fact of accumulative  
4 effects of neighbors that maybe they did  
5 emit -- one company emitted a de minimis  
6 amount and then you would have somebody  
7 within the immediate area emitted a de  
8 minimis amount and together they are above  
9 that de minimis and none of this takes that  
10 into consideration; is that correct?

11 MS. BRADLEY: That is correct.  
12 We will -- there is not a de minimis amount  
13 stated in the -- and applicable to the new  
14 standards that are proposed. That doesn't  
15 -- it's not carried over in the concept for  
16 the new rules.

17 MS. BARTON: So is it -- are we  
18 still going by the old thing or there isn't  
19 any?

20 MS. BRADLEY: Subchapter 41  
21 provisions will be superseded by Subchapter  
22 42.

23 MS. BARTON: Okay. That's all.

24 MS. BOTCHLETT-SMITH: Thank you,  
25 Nadine.



1 MS. BARTON: You're welcome.

2 MS. BOTCHLETT-SMITH: I also have  
3 a notice of comment from Angie Burkhalter  
4 of OIPA.

5 MS. BURKHALTER: I'm Angie  
6 Burkhalter and I'm representing Oklahoma  
7 Independent Petroleum Association. OIPA  
8 provided written comments on this  
9 rulemaking. First, I would like to commend  
10 Eddie and his staff and their efforts to  
11 try to resolve our issues -- our issues and  
12 comments and we think the rule is greatly  
13 improved from what it was.

14 Our members still have underlying  
15 concerns with the rule as it relates to  
16 marginal crude oil and natural gas  
17 production wells and how they are impacted.  
18 If they're pulled into an area of -- a  
19 future designated area of concern. As you  
20 know, marginal wells operate at the lower  
21 edge of profitability. Currently, product  
22 prices are good but that's not always the  
23 case. Our business is very cyclical. You  
24 know, I know Eddie has stated that he  
25 doesn't want to shut down anybody in



1 relation to this rulemaking, but I think  
2 our members still have a lot of questions  
3 on what DEQ will do if controls are needed  
4 that are uneconomical for marginal wells.

5           We understand that proposed rules  
6 has a lot of advantages over the existing  
7 Subchapter 41. So what we would ask today  
8 is that if you do approve these rules and  
9 they are implemented and in the future, if  
10 there are impacts to these marginal-types  
11 of wells, that we would get the support of  
12 the Air Quality Division and the Council to  
13 try to resolve these issues as soon as  
14 possible.

15           I appreciate the opportunity to  
16 provide comments here. I'll take any  
17 questions that you have.

18           DR. LYNCH: I would ask, do they  
19 -- do these marginal wells produce any of  
20 the compounds that are in Appendix O?

21           MS. BURKHALTER: Yes, benzene  
22 would be a good one. So I mean, that's our  
23 concern that you have small quantities from  
24 a lot of these marginal wells that are  
25 spread out around the state, so it is a



1 concern for us on how those will be dealt  
2 with if pulled into an area of concern.

3 MS. MYERS: Are most of those in  
4 pretty rural locations, though?

5 MS. BURKHALTER: They're just,  
6 you know, wells are just scattered all over  
7 the state. Some generally, I would say,  
8 are mostly in remote areas, but there are  
9 some, you know, closer into the cities.  
10 You know, Oklahoma City, Edmond, you know,  
11 fields and things like that, they are  
12 close. So they're just spread out every  
13 where.

14 MR. WILSON: Angie, you're  
15 concerned about benzene; is that right?

16 MS. BURKHALTER: Yes, benzene is  
17 a big concern of ours.

18 MS. BOTCHLETT--SMITH: Jennifer  
19 Galvin, you're next. How long is your  
20 presentation and would you like -- do you  
21 need a minute to set up?

22 MS. MYERS: Let's take a ten-  
23 minute break. It's ten after 11:00. We're  
24 going to start at twenty after.

25 (Off the record)



1 (Break)

2 MS. BOTCHLETT-SMITH: These  
3 comments were turned in during the break,  
4 so if anyone else wanted to comment, if  
5 you'll go ahead and give your comment sheet  
6 to either Myrna or Pat and we're ready for  
7 a presentation from Jennifer Galvin of  
8 ConocoPhillips.

9 MS. GALVIN: Can everyone hear  
10 me? I'm pretty loud and some people call  
11 me mouthy, so if you can't hear me, signal  
12 to me and I'll take up the volume a little  
13 bit.

14 Madam Chairman and the Council, I  
15 appreciate the opportunity to come down and  
16 speak to you today. I am a representative  
17 of ConocoPhillips today. I have put on my  
18 credentials -- I'm sorry the members of the  
19 general public don't have the handout, I  
20 only brought enough for the Council. I  
21 will be glad to provide this slide  
22 presentation to anyone who needs it. There  
23 are copies if you would like to have one,  
24 over here.

25 MR. WILSON: Our handout,



1 Jennifer, is your slide presentation?

2 MS. GALVIN: That's correct. The  
3 handout is the slide presentation.

4 I have put on the overhead, my  
5 credentials. I'm a Ph.D. toxicologist.  
6 I'm board certified in toxicology as well  
7 as industrial hygiene. I manage industrial  
8 hygiene and toxicology group for  
9 ConocoPhillips. I not only have worked for  
10 industry, I used to work for federal OSHA.  
11 And so what I would like to say is that  
12 worker health protection, or employee  
13 health, or people health, has always been  
14 my focus. So that's the direction that I  
15 come from. I have -- primarily, the only  
16 thing I have to offer my company is my  
17 professional integrity and I hold that in  
18 very high regard, high esteem. And the  
19 information I'm going to present to you  
20 today is information that anyone can get  
21 access to. And I would like to start by  
22 saying I appreciate very much the  
23 presentation that you made, Cheryl. I'm  
24 going to say many of the same things.  
25 I've kind of titled this



1 presentation From the Realm of  
2 Theoretical to the Road of Common Sense.  
3 I grew up in south central Oklahoma, just  
4 south of Norman and that's why I can say  
5 I'm a country toxicologist. And there are  
6 two things that I would like to do is --  
7 and Cheryl said this, also. I kind of like  
8 to do a reality check and always ask lots  
9 of questions and I really forgot what the  
10 other thing was, but it will come to me as  
11 I go through the presentation.

12           So as you can see here, there's only  
13 two items, and I did promise that the  
14 presentation is only about 15 minutes. I  
15 want to talk about Appendix O, which is  
16 where did it come from, what does the  
17 number mean and the measurements of our  
18 MAACs and can we measure the proposed  
19 level?

20           Eddie came up to me at the very  
21 beginning, he said you're going to be mad  
22 at me because we now have a new revised  
23 Appendix O and hopefully you've seen and  
24 heard about that today. Believe me, Mr.  
25 Terrill, I'm too old to get mad at people



1 and you're going to see why I really  
2 appreciate the changes that you have made  
3 to Appendix O, I think they're in the right  
4 direction and very common sense approach.

5           As Cheryl mentioned earlier, the  
6 numbers that are in Appendix O came from  
7 the US EPA's Integrated Risk Information  
8 System (IRIS) and anyone can have access to  
9 that, just go to [epa.gov/iris](http://epa.gov/iris). It's very  
10 easy to use, even I can use it. I'm not  
11 real computer literate, but you just put in  
12 the name of the chemical, punch go and you  
13 can get everything that they have.

14           Now, today's presentation, I'm not  
15 going to try to make you toxicologists in  
16 15 minutes, so I'm going to boil it down  
17 real quickly to what you need to know.  
18 Okay.

19           For your carcinogens, the EPA looks  
20 at a study and then they bring that  
21 information down to unit risk so that they  
22 can compare their chemicals across the  
23 board, their carcinogens across the board.  
24 And they do that for oral intake and for  
25 inhalation and today I'm just going to



1 focus on inhalation, because this is an air  
2 standard.

3           Each chemical is evaluated and  
4 assigned a unit risk number. I want to  
5 read that definition to you, and it's found  
6 in the IRIS glossary because it's  
7 important. The upper bound -- unit risk is  
8 defined by EPA as the upper-bound excess  
9 lifetime cancer risk estimated to result  
10 from continuous exposure to an agent at a  
11 concentration of one microgram per cubic  
12 meter in air. And all the dot, dot, dot,  
13 means is I took out the water number. The  
14 interpretation of unit risk would be as  
15 follows. If unit risk equals 1.5 times 10  
16 to the minus 6 micrograms per liter, what  
17 that means is you would have 1.5 excess  
18 tumors that would be expected to develop  
19 per 1,000,000 people if exposed daily for a  
20 lifetime to one microgram of the chemical,  
21 and I didn't take out the liter, the water  
22 reading there.

23           But I really want you to think about  
24 what that says. And I have listed some  
25 things that are really important. It's an



1 upper-bound. In other words, if you're  
2 provided information and there's an average  
3 or a range of information, EPA has taken  
4 the highest number which means they've made  
5 the number very conservative. They've also  
6 said it's continuous exposure over a  
7 lifetime. Now, you and I are sitting or  
8 standing in this room today and we're not  
9 at home, or in one single place receiving a  
10 continuous exposure. And certainly  
11 American society is extremely mobile and we  
12 tend not to live in the same place for 70  
13 years, even though this is how the EPA  
14 comes up with their numbers.

15           Now, I promise you I'm not going to  
16 try to make a toxicologist out of you, but  
17 I have said EPA uses the linear  
18 extrapolation model. But I boil that down  
19 into one sentence which means that when the  
20 study concentration ends, what the EPA does  
21 is they draw a straight line down to the  
22 origin, or to zero exposure and zero  
23 effect. That is also a very conservative  
24 way to look at data because that really  
25 means one molecule causes adverse effects.



1 You may agree or disagree with that. But  
2 all of us -- there are many examples, many  
3 examples we could use. We're all exposed  
4 to sunlight, but not all of us get skin  
5 cancer. So all I'm saying is that is a  
6 very conservative way to approach data.

7 MR. SMITH: Are you saying that  
8 in no case do they have a threshold level?

9 MS. GALVIN: That's correct. And  
10 they state that in their IRIS documentation  
11 and I brought copies if any of -- benzene  
12 and butadiene, if anybody wants to see that  
13 IRIS documentation. They state very  
14 clearly that linear extrapolation is used.

15 MR. SMITH: They force the  
16 statistics to have a slope such that the  
17 line goes to zero.

18 MS. GALVIN: Correct. Not  
19 necessarily the statistics. Unit risk --  
20 then they take that number and they say in  
21 order to compare chemicals equally, we're  
22 going to take this unit risk and convert it  
23 into a one per million number and that's  
24 what has come out or that's what Appendix O  
25 is. It's taking that unit risk number and



1 the ODEQ has decided whether it's going to  
2 be one in 1,000,000, or one in 10,000 or  
3 100,000 or one in 10,000. And the Appendix  
4 O prior to this one, I apologize, I don't  
5 have a copy of it but I did hand it out, it  
6 was a mixed bag. Benzene, butadiene -- I  
7 believe Cheryl pointed all those out, vinyl  
8 chloride, hexavalent chromium, I forget  
9 what they all were, but they were all in  
10 the 10 to the minus 6 risk. Now all of  
11 these have been moved over into 10 to the  
12 minus 4. And I have to admit that I think  
13 that is a very good thing and the reason is  
14 because of that last slide. Even in 10 to  
15 the minus 4, which you say, oh, my gosh,  
16 that's one tumor in 10,000 people. That's  
17 -- when you say it like that, you could get  
18 very concerned about, wow, think how many  
19 tumors that would be in the City of Tulsa  
20 or the City of Oklahoma City. Well, what I  
21 tried to present to you earlier is even  
22 that number is very, very conservative and  
23 I'm not going to focus in on how  
24 conservative and give you a number, but  
25 please rest assured that EPA is being very



1 protective even at 10 to the minus 4 risk  
2 level.

3           So I'm not even going to talk about  
4 this slide, because Appendix O has been  
5 corrected. They are all now 10 to the  
6 minus 4.

7           I am going to talk about  
8 measurements of MAACs and Cheryl also  
9 touched upon that. I have a report here,  
10 it was from the Office of the Inspector  
11 General. It was published or presented  
12 March 2, 2005. And I'm not exactly sure  
13 why the Office of the Inspector General was  
14 asked to look into this, but it was an  
15 evaluation report of progress made in  
16 monitoring ambient air toxics but further  
17 improvements can increase effectiveness.  
18 This also is available on the web and I can  
19 give you that address if you're interested.

20           One of the -- and Eddie, you should  
21 like this. The Office of the Inspector  
22 General said, key barriers to ambient air  
23 toxic monitoring included -- one barrier is  
24 adequacy of funding, even the EPA and the  
25 OIG acknowledged that this program has not



1 been adequately funded. But another  
2 inadequacy is lack of methods to monitor  
3 certain air toxics. Now, the OIG mentions  
4 three of those, hexavalent chromium being  
5 one, 1,3-butadiene being one, and acrolein.

6           The EPA's response was simply that  
7 the Office of Research and Development is  
8 currently working on methodological  
9 improvements. Acrolein and 1,3-butadiene  
10 have methodological weaknesses.

11           Well, let me tell you that the 1 to  
12 the minus -- I'm sorry, 10 to the minus 6,  
13 the original Appendix O I really don't  
14 think you could have gotten there. And so  
15 hence my next statements are the new  
16 proposed standard, Subpart 42, you can read  
17 it there, states the Director may recommend  
18 a substance be removed from the TAC MAAC  
19 list if the substance does not meet one of  
20 the criteria listed in 42-20(b)(1)(A)  
21 through (D).

22           And (B) of that section states that  
23 availability of methods for monitoring the  
24 ambient air concentration of the substance  
25 at the levels deemed to be acceptable for



1 human health. In other words, it can be  
2 removed if you can't measure for it.

3           So now I get down to my reality  
4 check -- and by the way, Mr. Terrill, I  
5 remember what my first premise was. Always  
6 speak to where people can understand the  
7 message, and Eddie said he wouldn't  
8 understand what I was going to say. I've  
9 missed my mark if my audience doesn't  
10 understand what I'm saying and the reality  
11 check. This is really just something I  
12 pulled out of the air to remind people that  
13 we are getting so close technologically to  
14 being able to measure what we're looking  
15 for and I'm just using -- we had parts per  
16 billion, you'll see that's 491 feet on the  
17 way to the sun, is one part per billion.  
18 The original Appendix O was in the parts  
19 per trillion range, which was six inches on  
20 the way to the sun. That's just to give  
21 you a context of what those numbers mean  
22 because if we say part per billion, maybe  
23 it doesn't come home to us how small an  
24 amount that is. But we're really getting  
25 down to the level of where we can actually



1 analyze what is causing this harm,  
2 potentially causing this harm, or allegedly  
3 causing this harm.

4           And with that, that is the end of my  
5 presentation. I'll be glad to take any  
6 questions. I do appreciate the fact that  
7 Appendix O has been corrected. I tried to  
8 keep it brief. As always, I think the  
9 State of Oklahoma is trying to be on the  
10 leading edge and I certainly appreciate  
11 that, but you do have a tough haul ahead of  
12 you as far as what to do. I appreciate the  
13 data that you presented, but it's going to  
14 be a tough haul.

15           MR. SMITH: I appreciate you  
16 talking, it's very clear, but what do you  
17 recommend?

18           MS. GALVIN: I have no  
19 recommendations at this time. This is how  
20 I look at it, I can make recommendations to  
21 my company but I don't make recommendations  
22 to this Council. It is their job and their  
23 duty to come up with recommendations.

24           Any other comments or questions?

25           MS. BARTON: I like that



1 measurement deal, that is so good. I mean,  
2 you know, you really have to think about  
3 that, right?

4 MS. GALVIN: Yes. It's not --  
5 it's simple to say but it's very difficult  
6 to do. I would like to add that butadiene  
7 has been a tremendous concern as far as  
8 employees and we -- since we've changed  
9 companies, ConocoPhillips has had a  
10 nationally accredited industrial hygiene  
11 laboratory since 1976. And we have worked  
12 with the federal government to come up with  
13 better methods for measuring personnel  
14 exposure. And I can tell you that I don't  
15 know how old your data is, but butadiene is  
16 extremely difficult to measure, it is  
17 extremely unstable. And many times if you  
18 don't analyze it within 48 hours, it will  
19 dimerize (phonetic spelling) -- sorry, it  
20 goes away, and you can't measure it. And  
21 what happens and what I'm concerned about  
22 is it gives you a falsely low number  
23 because it's not there anymore. So we've  
24 done a lot of work to make sure that we're  
25 measuring a real exposure to our workers.



1 So butadiene is a real challenge.

2 MR. TERRILL: That's a good point  
3 you brought up, because one of the things  
4 that EPA is doing is trying to develop  
5 personal monitors that are cheap. We sent  
6 -- we had folks in North Carolina at RTP at  
7 the National Air Toxic Conference and they  
8 got to tour the lab, at least Randy did,  
9 who is here today, got to tour the lab and  
10 they're doing a lot of work in trying to  
11 develop these personal monitors that people  
12 can wear, that accurately give a  
13 representation of what you're actually  
14 being exposed to. I think if they can do  
15 that and make it cost effective, that will  
16 further, more than anything else, what --  
17 how we address this because that gets right  
18 down to, you know, are you breathing or are  
19 you not, not just theoretical type thing.  
20 And it would also get at indoor exposure,  
21 too, I would think, because you may be  
22 exposed to things in your home that are  
23 much more harmful to you than what's coming  
24 in, in the ambient air.

25 So EPA does recognize they need to



1 do a lot of work on this and they are  
2 trying to take steps to drive the costs  
3 down of analysis and come up with ways to  
4 actually measure people exposure, if you  
5 will, to do that reality check, so that was  
6 good.

7 MS. BOTCHLETT-SMITH: Any other  
8 questions from the Council for Ms. Galvin?

9 MS. MYERS: That was a very good  
10 presentation, thank you, very much.

11 MS. BOTCHLETT-SMITH: Bud Ground,  
12 from PSO.

13 MR. GROUND: Thank you, very  
14 much, for this opportunity. And I wasn't  
15 going to say anything originally and as I  
16 heard the discussions I had a couple of  
17 questions actually come up. One's for  
18 Cheryl, and I had another statement or  
19 recommendation. I m not afraid to give my  
20 recommendations and my opinions.

21 But the first question, actually,  
22 Cheryl, during your presentation you talked  
23 about the changes to Subchapter 41 and the  
24 impacts on large stationary sources that  
25 are subject to a MAAC standard. And I



1 really didn't pick that up exactly what  
2 that -- the rest of that, I was trying to  
3 write it down and didn't hear it all and I  
4 kind of wanted to get your explanation  
5 again. And then I'll go ahead, while  
6 you're looking at that, as you were talking  
7 about lawsuits to require the DEQ to  
8 implement the standards, and that is  
9 actually very common on a federal level,  
10 and I guess we've never seen it on a state  
11 level. I guess to reiterate something I  
12 said at the last Council meeting, to me,  
13 one way we can get around this, as a state,  
14 is to actually change the definition of a  
15 MAAC. And I guess part of what I have to  
16 say is a question and part of what I have  
17 to say is a recommendation, is that you did  
18 change the definition of MAAC, the Maximum  
19 Acceptable Ambient Concentration to be an  
20 action level in averaging times. But  
21 anyone that reads something that says a  
22 maximum ambient concentration is going to  
23 think that is a part of standard and not an  
24 action level. I guess just a question and  
25 a -- my opinion of how this might be



1 addressed is just to take away -- or not  
2 take away but to redefine this is just an  
3 ambient action level and not a maximum  
4 ambient concentration where these Appendix  
5 0 is based on ambient action level or  
6 ambient action concentration and not have  
7 that definition of a MAAC. So that's the  
8 two points I was wanting to make.

9 MR. PAQUE: Well, just to answer  
10 that last part, we're kind of stuck to the  
11 MAAC term, that's in the Clean Air Act and  
12 it charges the DEQ and the Council to set a  
13 Maximum Ambient Air Concentration. We've  
14 interpreted that a little differently in  
15 the rule by adding action level, specified  
16 that it is an action level, but that term  
17 is in the Act where we're setting standards  
18 for TACs, Toxic Air Contaminants, that  
19 we're supposed to set based on a MAAC. So  
20 that's why we stuck to that maximum term.

21 MR. GROUND: And actually that  
22 was in the explanation portion of what we  
23 received on the web. I asked why it wasn't  
24 changed to a maximum action -- ambient  
25 action concentration and they said that's



1 because that is a federal definition.  
2 That's why -- now, to me, if you're not  
3 really using it as what the federal  
4 definition of a MAAC standard is, it's  
5 actually an action level now. It looks to  
6 me like it could be redefined.

7 MR. PAQUE: Well, the MAAC is a  
8 state term, it's not a federal term. MACT  
9 is a federal term. And so we're bound in  
10 our rule to set these standards and call  
11 them a MAAC by the state statute. Of  
12 course, we have delegation over the MACT  
13 standards, as well, and the way the rule is  
14 written is if a particular unit is subject  
15 to a MACT, it would be exempt from the  
16 MAAC.

17 MR. GROUND: Okay. So that's the  
18 answer to that question.

19 MR. PAQUE: Yes.

20 MR. SMITH: So that s the Oklahoma  
21 Clean Air Act?

22 MR. GROUND: The Clean Air Act  
23 charges us with if it's subject -- the unit  
24 is subject to a MACT then it cannot be  
25 subject to a state MAAC. But the term



1 MAAC, we're kind of stuck with that one  
2 based on what we're charged with doing in  
3 the Act.

4 MR. TERRILL: That might be a  
5 fix, though, that we can do later.

6 MR. PAQUE: The original rule, we  
7 looked at a different terminology, but we  
8 came to the realization that we needed to  
9 stick with what's charged in the Act.

10 MR. GROUND: I guess just to  
11 finish up. It just seems to me like what  
12 we're trying to set is an action level,  
13 it's something for the state to take an  
14 action and not really set a hard standard.  
15 I mean, that's what I've heard today. So  
16 it just seems like if it were redefined, it  
17 would not be an issue legally. It would be  
18 an action level and not a maximum ambient  
19 concentration. That's all. Thank you.

20 MS. BOTCHLETT-SMITH: Next  
21 comment is Joe Cowan with (inaudible) USA  
22 Pryor cement plant.

23 MR. COWAN: Madam Chairman,  
24 Council Members, ladies and gentlemen, my  
25 name is Joe Cowan. I am an environmental



1 manager with a cement company, (inaudible)  
2 USA, which is Italian in origin. When I  
3 started with the company nine years ago, it  
4 was Lone Star Industries. We have a cement  
5 plant in Pryor, Oklahoma. It s been there  
6 since 1960. So we're not new to the  
7 community, we just have new owners.

8           And I want to say that I think that  
9 the Agency is on the right track with  
10 creating regulatory framework to address  
11 ambient air quality. I'm not sure exactly  
12 how this structure is going to work in  
13 practice, but it looks like a lot of effort  
14 and time and thought has gone into  
15 producing the proposed rules.

16           I do have a problem with the  
17 emission fee proposals. Actually, I have  
18 two or three problems. It appears as if  
19 the purpose of the revision to the fee  
20 structure is simply to raise \$835,000 to  
21 support the work you would be doing to  
22 implement, and maybe do research for the  
23 air quality rules that you proposed. And  
24 I'm not sure that this is exactly the right  
25 mechanism for achieving that and you may



1 want to wait a while.

2           My experience with the current  
3 emissions inventory reporting system, in  
4 particular Red Bud, one of my favorite  
5 pieces of software, is it has forced us to  
6 use methods of calculating our emissions  
7 that we have not used in the past. The  
8 list of acceptable methods ends with other  
9 methods that have received approval from  
10 the DEQ and I'm not sure what the mechanism  
11 is for submitting those calculations to the  
12 DEQ or who to submit them to, to get that  
13 approval. But in any case, using the  
14 methods that are there, by my calculation,  
15 we're going to pay you guys an extra fifty  
16 or sixty thousand dollars this coming year.  
17 That's nearly a tenth of the money that  
18 it's going to take to implement your air  
19 quality regs. So you may not really have a  
20 need to become more complicated with this  
21 process.

22           In addition to that, there are some  
23 overlaps between Group I and Group II  
24 compounds, and the way I read the regs, I  
25 get to pay you a fee for a ton of a Group I



1 compound and if it's also a Group II  
2 compound, I get to pay you an additional  
3 fee.

4 DR. SHEEDY: No.

5 MR. COWAN: Can someone show me  
6 in the language where it says or and how I  
7 subtract one from the other?

8 MR. WILSON: I thought what it  
9 said was, if it's a Group I and a Group II,  
10 then just call it a Group II.

11 DR. SHEEDY: Yes, that's right.  
12 If it's a VOC and a toxic, it's charged to  
13 toxic. If it's a Group I and Group II,  
14 it's charged as a Group II.

15 MR. COWAN: Okay.

16 DR. SHEEDY: And the paragraph is  
17 5-2.2(a)(3).

18 MR. COWAN: Okay. Next.

19 MR. WILSON: But you do have to  
20 keep an eye on them.

21 MR. COWAN: Well, my third  
22 concern is looking at a list of a  
23 combination of exempt chemical species and  
24 compounds. And comparing that with the  
25 existing NESHAPS rule, we're subject to 40



1 CFR 63 Subpart LLL under the NESHAPS. EPA  
2 study emissions from cement plants and  
3 decided that there was one group of  
4 specific compounds for which a limit would  
5 be imposed and that would be the 17 various  
6 dibenzo dioxins and dibenzo (phonetic  
7 spelling). And we emit those in quantities  
8 of grams per year and it will be a while  
9 before we accumulate tons of or even a ton  
10 of dioxins. And the other concern was a  
11 group of non-spectate HAPS, the metals.  
12 And they decided there was no way to  
13 measure metals as such and they picked  
14 particulate emissions as a surrogate of  
15 metals and imposed on us two limits; one of  
16 which is opacity, and one of which is based  
17 on a periodic stack test and it is pounds  
18 of particulate per ton of dry feed from  
19 (inaudible). So we don't actually do the  
20 analysis to determine arsenic, nickel,  
21 beryllium, et cetera, they're all lumped  
22 together in the particulate emission rule.  
23 I'm not sure whether all of our TSP is HAP  
24 because it's assumed to be by EPA or  
25 whether only the specific compounds are HAP



1 based on some chemical analysis that we  
2 haven't done and which would be fairly  
3 expensive. And then there's the problem of  
4 the compounds and there aren't -- there  
5 aren't any special tests that I know of  
6 that will tell you whether you have nickel  
7 compounds versus nickel metal without going  
8 into very long, complicated, look for each  
9 nickel compound that exists, sort of  
10 analysis. So it's -- it's a little tricky  
11 trying to decide what we're responsible for  
12 knowing and quantifying for purpose of  
13 doing our emission fee report. A little  
14 more time and effort might be useful in  
15 that process. Thank you.

16 MS. BOTCHLETT--SMITH: The next  
17 comment is Thelma Norman with American  
18 Airlines.

19 MS. NORMAN: Madam Chairman,  
20 Council, my name is Thelma Norman, I'm an  
21 engineer for American Airlines Maintenance  
22 Facility here in Tulsa. My question also  
23 regards the Subchapter 5 fees and primarily  
24 why are non-toxic, non-HAP VOCs categorized  
25 as Class II and which thereby subjects them



1 to the \$40 fee. And my question primarily  
2 derives from the perspective of an  
3 aerospace industry where precision cleaning  
4 is the source of most of our VOCs. And in  
5 the past, there have been instances where  
6 we have been able to switch from the highly  
7 toxic VOC cleaners such as  
8 trichloroethylene and go to maybe a citrus  
9 cleaner which is a (inaudible) and which is  
10 therefore a VOC. I think there may be some  
11 helpful strategy in classifying these types  
12 of low priority VOCs, non-toxic, non--HAP  
13 VOCs and classifying them as Class I and  
14 thereby offering some incentive for  
15 industries like ourselves to switch to the  
16 non-toxic type VOCs.

17 MR. WILSON: Does the state have  
18 a response to that?

19 MR. TERRILL: It's a good idea.  
20 I don't know that -- when we were looking  
21 at this, the best I can remember, we did  
22 not try to break the VOCs down into that  
23 because we would have got in -- she brings  
24 up a good point. There can be other good  
25 points about excluding them, as well, maybe



1 other VOCs but we just didn't try to do  
2 that. To be honest with you, I don't think  
3 we're going to come out of here today with  
4 a fee of any sort and with any luck, we  
5 won't have to be coming back to you all for  
6 a fee. We're still in pretty good shape  
7 over at the legislature to get appropriated  
8 money to fund this toxics program. That  
9 was as of day before yesterday. But if  
10 that doesn't pan out over the next four or  
11 five weeks, when we come back in July, we  
12 will have a much more detailed proposal  
13 similar to what we did last meeting about  
14 our fee schedule, in what we want, and it  
15 will be a lot more detailed even than what  
16 you got before. But we still think -- I'm  
17 reasonably optimistic that we're going to  
18 get state appropriations to fund this. EFO  
19 and the industry, the supporting folk that  
20 have been very active over at the  
21 legislature this session, and Steve has  
22 done a real good job of making our case and  
23 I'm real hopeful that we're not going to  
24 have to ask for a fee, but I won't know for  
25 another five or six weeks. But that's a



1 good point that Ms. Norman brings up.

2 MS. BOTCHLETT--SMITH: Any other  
3 comments or questions from the Council on  
4 this rule package?

5 Did staff make a recommendation?

6 MR. WILSON: Staff recommended we  
7 vote on it.

8 MS. BOTCHLETT--SMITH: Is 5 in or  
9 out?

10 MR. TERRILL: Well, that's up to  
11 the Council. I mean, we were going to  
12 recommend that it be passed as a package,  
13 but the Council can elect to split it out  
14 and pass one and not the other, or hold it  
15 over, and it's totally up to you all.

16 MR. BRANECKY: Well, the danger I  
17 see in passing 5 today is that the  
18 legislature would see that you've got  
19 funding, why do we need to give you any  
20 appropriation money? So if we held over --  
21 held off on 5 until after the legislature  
22 is out of session, maybe that would give  
23 you a better chance to get appropriation  
24 money.

25 MR. TERRILL: I agree with that



1 and I think we had talked about this at the  
2 pre-meeting and I'm totally fine with that,  
3 because I'm real optimistic that we're  
4 going to get that, a lot more so than I've  
5 ever been before at this time. So if the  
6 Council is comfortable with the rule, we  
7 would certainly -- and at one time I was  
8 against that, but I've changed my mind. I  
9 think that splitting it out, if that's what  
10 you all want to do, I would support that.  
11 We can come back if we need to.

12 Yes, sir?

13 MR. SMITH: Eddie, the procedure,  
14 first, is the legislature aware that DEQ  
15 can impose this fee if they don't fund it?

16 MR. TERRILL: I don't think Steve  
17 makes it a point of telling them that, but  
18 I'm sure they know that because we're a  
19 fee-driven agency. What we're trying to do  
20 is approach this from the aspect of we get  
21 very little appropriated dollars in the  
22 overall part of our budget and it's not  
23 fair for industry, the Title V fee payers,  
24 to continue to pay for fees that really  
25 should be -- the state toxics program is a



1 statewide program and not just a Title V  
2 driven program. It's a mobile source  
3 driven program, it's an area source driven  
4 program and we've approached this from the  
5 aspect that it's fair for the legislature  
6 to appropriate money to fund this than it  
7 is to ask the fee payers to pick it up. So  
8 that's how we've done that.

9 MR. SMITH: My next question is  
10 really dumb, I'm sorry, but can the Air  
11 Quality Board pass this fee without an  
12 approval of the legislature?

13 MR. TERRILL: Well, the way it  
14 works is the Council would recommend to the  
15 Board, a fee increase. But we won't take  
16 the fee increase to the Board until  
17 February of next year, because fees can't  
18 come in front of the DEQ Board unless the  
19 legislature is in session. So regardless  
20 of when we pass the fee part of this, or if  
21 they pass it, we can't take it on -- that  
22 portion on to the Board until February of  
23 next year, January, whenever they set the  
24 meeting up that's during the session.

25 MR. SMITH: But does that mean



1 the Board can pass an increase in a fee  
2 without legislative --

3 MR. TERRILL: The legislature has  
4 the final approval.

5 MR. SMITH: Does it?

6 MR. TERRILL: Yes, sir. They  
7 have final approval. That can only happen  
8 during the session. That's the reason that  
9 the Board has to pass it during the  
10 session. It goes directly to them and they  
11 can reject it, yes, sir.

12 MS. BRADLEY: I'll formalize the  
13 recommendation. Just to recap. The  
14 Department proposed amendments to  
15 Subchapter 5-41 and then a new Subchapter  
16 42 and Appendix O. If adopted, these rules  
17 will implement a new air toxics program and  
18 the existing state air toxics provisions in  
19 Subchapter 41 will be superseded and be no  
20 more. The remaining Subchapter 41 will be  
21 federal NESHAPS and MAACs which have been  
22 adopted by reference. The amendments to  
23 Subchapter 5 will provide the necessary  
24 funding for the transformed program.

25 Staff suggests that the Council vote



1 to recommend to the Environmental Quality  
2 Board permanent adoptions of the amendments  
3 to Subchapter 5--41, including the changes  
4 recommended by staff today and the addition  
5 of Subchapter 42, and Appendix O as a  
6 package. Alternately, staff would  
7 recommend that if the Council so chooses,  
8 Subchapter 5 -- alternately, the staff  
9 would recommend that in no circumstances  
10 would Subchapters 41, 42 and Appendix O be  
11 separated, as one action.

12 MR. BRANECKY: Well, I guess I  
13 haven't heard anything today that I think  
14 would preclude me from recommending we pass  
15 41, 42 and O. I still think we need to  
16 continue 5 to the next meeting and see how  
17 the legislative funding goes. However, I  
18 know, this being a new rule, it's better  
19 than what we have but there's still a lot  
20 of uncertainty, so I would like to  
21 recommend or have some discussion -- and  
22 Eddie, you probably won't like this, but  
23 there be some language in the rule added  
24 that this be reviewed annually and brought  
25 back to the Council to see how it s



1 working.

2 MR. TERRILL: That's fine.

3 MR. BRANECKY: That way it will  
4 give DEQ an opportunity to review it, give  
5 industry an opportunity to have input and  
6 see how it's working, and then we can make  
7 any adjustments if we need to, and bring it  
8 back through rulemaking based on the review  
9 of DEQ and the input from industry. So if  
10 we could put some language in there that --

11 MR. TERRILL: Actually, I don't  
12 think you need language. I think you all  
13 can bring it up on your own.

14 MR. BRANECKY: Well, I would like  
15 for you guys to do an internal review and  
16 bring us some type of report to give us an  
17 indication of how you think it's working.

18 MR. TERRILL: Why don't we -- I  
19 would prefer just to do that as direction  
20 of the Council as opposed to -- if we start  
21 adding language like that, I'm probably  
22 going to ask that you hold it over, because  
23 I want to make sure that we haven't done  
24 something that we hadn't intended. I mean,  
25 we did the same thing for excess emission



1 malfunction and if we ever get any comments  
2 from industry, we're probably going to  
3 bring that rule back for you guys to look  
4 at. And we intend to do that. So I would  
5 prefer just at the direction of the  
6 Council, you pass this rule, you give me  
7 direction to bring this back to you all in  
8 12 months, whatever you want. Actually,  
9 this can't even go in to -- we probably  
10 won't even implement this until next year.  
11 So that's the reason it would be very  
12 difficult to put any kind of -- we have to  
13 think about that language. I would just  
14 rather have direction that we bring this  
15 back for review 12 months after the rule  
16 becomes effective or something like that.

17 Cheryl, did you have something?

18 MS. BRADLEY: Yes, I was going to  
19 suggest we -- we can routinely provide  
20 information on the emissions of each of the  
21 TACs and HAPs. We could also provide  
22 monitoring data that has been collected as  
23 part of this program or any EPA grants and  
24 other monitoring data that we're aware of,  
25 and also any modeling information that we



1 have developed on a routine basis, so that  
2 the Council can see progress and have  
3 current information on what's being  
4 collected. Is that what you had in mind,  
5 David?

6 MR. BRANECKY: Yes.

7 MR. TERRILL: We can make this as  
8 intense, if you will, as you all want to  
9 have. I mean, that's a fair -- I would  
10 prefer to have this as a direction to do it  
11 a year after that and have it on the  
12 record.

13 MR. BRANECKY: Do you direct them  
14 to do that, Sharon?

15 MS. MYERS: Yes, I would direct  
16 you to do that, but I need a motion.

17 MR. BRANECKY: All right. I will  
18 move then that we continue -- can we do it  
19 all as one or do we have to do it  
20 separately?

21 MR. TERRILL: You can do them all  
22 as a group.

23 MR. BRANECKY: Well, I want to  
24 continue 5 until the next meeting, and move  
25 for adoption with the recommended changes



1 that DEQ made today of Subchapters 41, 42  
2 and Appendix O.

3 MS. MYERS: Okay. We have a  
4 motion. Do we have a second?

5 MR. SMITH: Second.

6 MS. MYERS: We have a motion and  
7 a second.

8 MR. BRANECKY: With the direction  
9 that DEQ will come back within 12 months  
10 after effective date, that they bring us a  
11 review of progress on implementation of the  
12 rule within 12 months after its effective  
13 date. Does that sound reasonable?

14 Do I have to start all over again?  
15 Is that okay?

16 MR. TERRILL: That's fine with  
17 me. And you've got a second? That was a  
18 discussion for clarification. To make --  
19 to be absolutely clear, we will come back  
20 to the Council with a report on the  
21 effectiveness of the rule no later than  
22 June of 2007.

23 DR. LYNCH: Will you have any  
24 data by then?

25 MR. TERRILL: We may not. If



1 that's the case, then that's what we'll  
2 say. We may not have much to report.

3 MR. BRANECKY: Well, then will  
4 there be an annual after that?

5 MR. TERRILL: If the Council so  
6 wishes.

7 MR. BRANECKY: Then we can direct  
8 you from that point on.

9 MR. TERRILL: Exactly. That's  
10 what you all are here to do.

11 MR. BRANECKY: Okay.

12 MS. MYERS: So I think we have a  
13 motion and --

14 MR. SMITH: Can we have the  
15 motion stated one more time?

16 MR. BRANECKY: I make the motion  
17 that we continue Subchapter 5 until the  
18 next Council meeting. Also, move that we  
19 adopt Subchapters 41, 42 and Appendix O  
20 with the changes suggested by staff today,  
21 with the understanding that DEQ will  
22 provide us a report on the effectiveness of  
23 the rule no later than June of 2007.

24 MS. BOTCHLETT-SMITH: Do you  
25 still second?



1                   MR. SMITH:    Sure.    I just have a  
2   question on why you can't direct that the  
3   report comes up annually, rather than do it  
4   once a year.

5                   MR. TERRILL:    You can.

6                                 (Inaudible comments)

7                   MS. BOTCHLETT--SMITH:    I think  
8   you've got a motion and a second and you  
9   either have to decline the motion and be  
10  done with it and redo it.

11                   MS. MYERS:    Third time is the  
12  charm.

13                   MR. SMITH:    Do you intend that it  
14  be continuous?

15                   MR. BRANECKY:    Yes.    I'll decline  
16  the previous motion and I'll try one more  
17  time.

18                                 I move that Subchapter 5 be  
19  continued until the next Council meeting.  
20  Subchapters 41, 42 and Appendix 0 to be  
21  adopted with the revisions suggested by  
22  staff today, and also direct that the  
23  Department provide the Council with a  
24  report on the effectiveness of the rule no  
25  later -- first report due no later than



1 June 2007 and annually after that.

2 MS. MYERS: Now we have a motion.

3 Do we have a second?

4 MR. SMITH: Yes.

5 MS. MYERS: We have a motion and

6 a second. Myrna, could you call the roll,

7 please.

8 Is there any additional discussion?

9 Okay. Now we have a motion and a second.

10 Myrna, could you call the roll,

11 please.

12 MS. BRUCE: David Branecky.

13 MR. BRANECKY: Yes.

14 MS. BRUCE: Bob Lynch.

15 DR. LYNCH: Yes.

16 MS. BRUCE: Gary Martin.

17 MR. MARTIN: Yes.

18 MS. BRUCE: Laura Worthen.

19 MS. WORTHEN: Yes.

20 MS. BRUCE: Don Smith.

21 MR. SMITH: Yes.

22 MS. BRUCE: Joel Wilson.

23 MR. WILSON: No.

24 MS. BRUCE: Sharon Myers.

25 MS. MYERS: Yes.



1 MS. BRUCE: Motion passed.

2 MS. BOTCHLETT--SMITH: That  
3 concludes the hearing portion of today's  
4 meeting.

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6 (END OF PROCEEDINGS)

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