

MINUTES
AIR QUALITY ADVISORY COUNCIL
July 17, 2013
Department of Environmental Quality
Multipurpose Room
Oklahoma City, Oklahoma

Official AQAC Approved
at January 15, 2014 meeting

Notice of Public Meeting – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on July 17, 2013, in the Multipurpose Room of the Department of Environmental (DEQ), 707 N. Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of Secretary of State on November 16, 2012. The agenda was posted at the DEQ twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith, Assistant Division Director of the Air Quality Division (AQD), acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that forms were available at the registration table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

MEMBERS PRESENT

Gerald Butcher
J. Kelly Dunkerley
David Gamble
Jim Haught
Laura Lodes
Robert Lynch
Sharon Myers

MEMBERS ABSENT

Montelle Clark
Gary Collins

DEQ STAFF PRESENT

Eddie Terrill
Beverly Botchlet-Smith
Cheryl Bradley
Rob Singletary
Kent Stafford
Randy Ward
Laura Finley
Jennifer Boyle
Heather Lerch
Tom Richardson
Matt Weis
Diana Hinson
Sean Walker
Joyce Sheedy
Nancy Marshment
Dawson Lasseter
Mark Gibbs
Dara Schultz
Artisha Hicks
Quiana Fields

OTHERS PRESENT

Christy Myers, Court Reporter

Approval of Minutes – Ms. Lodes called for a motion to approve the Minutes of the April 17, 2013 Regular Meeting. Mr. Haught moved to approve and Mr. Butcher made the second.

	<i>See transcript pages 4 - 5</i>		
Gerald Butcher	Yes	Robert Lynch	Yes
J. Kelly Dunkerley	Yes	Sharon Myers	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

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

For Consideration as a Permanent Rule

Mr. Matt Weis, Environmental Programs Specialist of the AQD, gave a presentation on the proposed rule. Mr. Weis stated the Department proposes to modify Subchapter 5, Registration, Emission Inventory and Annual Operation Fees to amend the current emission inventory reporting schedule in OAC 252:100-5-2.1 for all minor source facilities registered under a Permit by Rule (PBR). The Department also proposes to modify language in 252:100-5-2, -2.1, and -3 to make a correction and to remove obsolete language. Following discussion by the Council and the public, Ms. Lodes called for a motion to pass the rule. Mr. Haught move to approve the proposed changes to Chapter 5 and Dr. Lynch made the second.

	<i>See transcript pages 6 - 45</i>		
Gerald Butcher	Yes	Robert Lynch	Yes
J. Kelly Dunkerley	Yes	Sharon Myers	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

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

For Consideration as an Emergency Rule

Mr. Matt Weis stated the Department has received a request for adoption of the proposed permanent rule as an emergency rule. Mr. Weis indicated in order for a rule to be promulgated as an emergency rule, a finding of emergency has to be made. There must be substantial evidence that the rule is necessary as an emergency rule in order to satisfy one of the following five criteria: 1) to protect public health, safety, and welfare; 2) to comply with deadlines and amendments to agency’s governing law or federal programs; 3) avoid violation of federal law or regulation or other state law; 4) to avoid imminent reduction in the agency’s budget or 5) the rule has to be necessary to avoid serious prejudice to the public interest. Following questions and comments by the Council and none by the public, Ms. Lodes called for a motion to pass the rule as an Emergency rule. Ms. Myers made a motion and Mr. Butcher made the second.

	<i>See transcript pages 45 – 52</i>		
Gerald Butcher	Yes	Robert Lynch	Yes
J. Kelly Dunkerley	Yes	Sharon Myers	Yes
David Gamble	Yes	Laura Lodes	Yes
Jim Haught	Yes		

Ms. Botchlet-Smith announced the conclusion of the hearing portion of the meeting.

See transcript pages 52

Presentation – Subchapter 17, Incinerators – Ms. Diana Hinson, Environmental Programs Specialist of the AQD, gave a presentation on a future proposal to modify OAC 252:100-17, Part 3, General Purpose Incinerators and Part 9, Commercial and Industrial Solid Waste Incineration Units (CISWI), to adjust enforceable requirements and compliance dates consistent with federal requirements that were revised February 7, 2013. The proposal will also incorporate changes

required as a result of revisions to 40 CFR Part 60, Subpart DDDD for state plans under Sections 111(d) and 129 of the federal Clean Air Act, applicable to existing CISWI units.

Division Director's Report – Mr. Eddie Terrill, Division Director of the AQD, provided an update on other Division activities.

New Business – None

Adjournment – The next Regular Meeting is scheduled for Wednesday, October 16, 2013 in Oklahoma City, Oklahoma. Ms. Lodes called for a motion to adjourn the meeting. Ms. Myers moved to adjourn and Mr. Gamble made the second.

Transcript and Attendance Sheet are attached as an official part of these Minutes.

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL MEETING
ON JULY 17, 2013, AT 9:00 A.M.
HELD IN OKLAHOMA CITY, OKLAHOMA

* * * * *

Myers Reporting

Sheet 2 Page 2

MEMBERS OF THE COUNCIL

Mr. Gerald Butcher
Mr. Montelle Clark
Mr. Gary Collins
Mr. David Gamble
Mr. Jim Haught
Dr. Robert Lynch
Ms. Sharon Myers
Ms. Laura Lodes
Mr. Kelly Dunkerley

Page 3

PROCEEDINGS

1
2 MS. LODES: I'm going to
3 call today's meeting to order.
4 Quiana, will you please call
5 role.
6 MS. FIELDS: Good morning.
7 Gerald Butcher.
8 MR. BUTCHER: Here.
9 MS. FIELDS: Montelle Clark
10 is absent. Gary Collins is absent.
11 Kelly Dunkerley.
12 MR. DUNKERLEY: Here.
13 MS. FIELDS: David Gamble.
14 MR. GAMBLE: Here.
15 MS. FIELDS: Jim Haught.
16 MR. HAUGHT: Here.
17 MS. FIELDS: Bob Lynch.
18 DR. LYNCH: Here.
19 MS. FIELDS: Sharon Myers.
20 MS. MYERS: Here.
21 MS. FIELDS: Laura Lodes.
22 MS. LODES: Here.
23 MS. FIELDS: We have a
24 quorum.
25 MS. LODES: Thank you.

Page 4

1 The next item on today's agenda
2 is Approval of the Minutes from the
3 April 17, 2013 regular meeting.
4 Do we have any comments or
5 questions on the Minutes?
6 Seeing no comments or
7 questions, do we have a motion to
8 approve the Minutes?
9 MR. HAUGHT: So moved.
10 MR. BUTCHER: Second.
11 MS. LODES: I have a motion
12 and a second. Quiana, please call
13 roll.
14 MS. FIELDS: Mr. Butcher.
15 MR. BUTCHER: Yes.
16 MS. FIELDS: Mr. Dunkerley.
17 MR. DUNKERLEY: Yes.
18 MS. FIELDS: Mr. Gamble.
19 MR. GAMBLE: Yes.
20 MS. FIELDS: Mr. Haught.
21 MR. HAUGHT: Yes.
22 MS. FIELDS: Dr. Lynch.
23 DR. LYNCH: Yes.
24 MS. FIELDS: Ms. Myers.
25 MS. MYERS: Yes.

Page 5

1 MS. FIELDS: Ms. Lodes.
2 MS. LODES: Yes.
3 MS. FIELDS: Motion passed.
4 MS. LODES: Thank you.
5 MS. BOTCHLET-SMITH: Good
6 morning. I'm Beverly Botchlet-Smith.
7 I'm the Assistant Director of the Air
8 Quality Division. And as such, I
9 will serve as Protocol Officer for
10 today's hearings.
11 The hearings will be convened
12 by the Air Quality Council in
13 compliance with the Oklahoma
14 Administrative Procedures Act in
15 Title 40 of the Code of Federal
16 Regulations, Part 51, as well as the
17 authority of Title 27A of the
18 Oklahoma Statutes, Section 2-2-201,
19 and Sections 2-5-101 through 2-5-117.
20 Notice of the July 17, 2013
21 hearings were advertised in the
22 Oklahoma Register for the purpose of
23 receiving comments pertaining to the
24 proposed OAC Title 252, Chapter 100
25 rules as listed on the Agenda and

Myers Reporting

Sheet 3 Page 6

1 will be entered into each record
2 along with the Oklahoma Register
3 filing. Notice of the meeting was
4 filed with the Secretary of State on
5 November 16, 2012. The Agenda was
6 duly posted 24 hours prior to the
7 meeting here at the DEQ.

8 If you wish to make a
9 statement, it is very important that
10 you complete the form at the
11 registration table, and you will be
12 called upon at the appropriate time.

13 Audience members please come to
14 the podium for your comments and
15 please state your name prior to
16 making your comments.

17 At this time, we will proceed
18 with what's marked as Agenda Item
19 Number 4A on the Hearing Agenda.
20 This is OAC 252:100-5, Registration,
21 Emission Inventory and Annual
22 Operating Fees. And the presentation
23 will be given by Mr. Matt Weis of
24 our staff.

25 Thank you.

Page 7

(Pause)

2 MR. WEIS: Madam Chair,
3 Members of the Council, ladies and
4 gentlemen, I'm Matt Weis,
5 Environmental Programs Specialist
6 with the Air Quality Division. The
7 Department is proposing to revise the
8 current Subchapter 5, Registration,
9 Emission Inventory and Annual
10 Operating Fees.

11 Changes to subchapter 5 have
12 been made to amend the emission
13 inventory reporting schedule for
14 Permit by Rule facilities and update
15 obsolete language in 252:100-5-2,
16 -2.1 and 3. This action is in
17 response to requests received from
18 industry during the development of
19 the Oil and Natural Gas Permit by
20 Rule, and will lessen the reporting
21 burden on all PBR facilities.

22 Additionally, the proposed
23 reporting schedule will align the PBR
24 emission inventory reporting cycle
25 with the National Emission Inventory

Page 8

1 Three-Year Cycle Inventory. The
2 Department believes more accurate
3 data is important for the development
4 of the 2014 NEI, as this will likely
5 be the most recent inventory before
6 2016, when EPA is expected to make
7 the next 8-hour Ozone designations.

8 The current PBR emission
9 inventory reporting schedule in
10 subchapter 5 contains two different
11 reporting timelines, based on
12 facility emissions. Facilities with
13 emissions greater than 5 tons per
14 year are required to submit an
15 emission inventory every calendar
16 year. Facilities with emissions of 5
17 tons or less per year are required
18 to submit an emission inventory for
19 every fifth year of operation. It
20 should be noted that this five year
21 is specific to each facility, making
22 it difficult to compare and analyze
23 emissions from these facilities.

24 The proposed PBR emission
25 inventory reporting schedule requires

Page 9

1 all PBR facilities to submit an
2 emission inventory for the 2014
3 reporting year or the calendar year
4 in which the facility is first
5 registered under a PBR, if registered
6 after December 31, 2014.

7 Thereafter, facilities with
8 actual emissions over 5 tons per year
9 will be required to submit an
10 emission inventory every National
11 Emissions Inventory Three-year Cycle
12 inventory year. This occurs on a
13 three year interval.

14 Facilities with actual
15 emissions of 5 tons or less will be
16 required to submit an emission
17 inventory every second National
18 Emissions Inventory Three-Year Cycle
19 inventory year beginning in 2020.
20 This occurs on a six year interval.

21 For example, Facility A is
22 registered in 2012; it has 10 tons
23 of actual emissions. This facility
24 will first register with the 2014 NEI
25 along with all PBR facilities and all

Myers Reporting

Sheet 4 Page 10

Page 12

1 of the regulated facilities. Because
2 the facility has over 5 tons per
3 year of actual emissions it will
4 again report in three years, the 2017
5 NEI. Again, it will report in 2020
6 with all PBR facilities and 2023 with
7 all PBR facilities with over 5 tons
8 per year and all of the regulated
9 facilities.

10 Facility B, for example, has
11 4.5 tons of emissions during 2014.
12 This facility would register and file
13 in 2014, an emission inventory and
14 then again in 2020 with all PBR
15 facilities since the emissions are
16 under 5 tons. Again, it would file
17 in 2026. For facilities that
18 register in an off year, after 2014,
19 they will file the first year of
20 registration.

21 For example, Facility C first
22 registered in 2015 with 15 tons of
23 emissions, this facility will file
24 emission inventory for 2015. Again,
25 with the 2017 NEI because that's over

1 Notice of the proposed rule
2 changes was published in the Oklahoma
3 Register on June 17, 2013. The
4 notice requested written comments
5 from the public and other interested
6 parties. Comments were received from
7 Apache Corporation, Devon Energy
8 Corporation, EPA Region 6, and
9 Oklahoma Independent Petroleum
10 Association. A response to comment
11 document was published to the web 24
12 hours prior to this meeting.

13 Apache Corporation provided
14 written comments on July 8, 2013 by
15 email expressing concern about the
16 proposed reporting schedules for
17 Permit by Rule facilities. This
18 specifically dealt with the three and
19 six-year intervals, and they asked
20 for clarification of those two
21 intervals.

22 Staff recommends revising the
23 language of the original proposal to
24 clarify the reporting intervals for
25 PBR facilities and to exempt PBR

Page 11

1 5 tons of emissions, and every three
2 years after that.

3 In addition to the new PBR
4 emission inventory reporting
5 schedules, obsolete language has been
6 updated at three locations in the
7 text.

8 252:100-5-2(b) Necessary
9 Information. The requirements to
10 report the physical state of
11 contaminant and moisture content of
12 gas stream have been removed as there
13 is no longer a need.

14 252:100-5-2.1 Emissions
15 Inventory. The reporting method
16 specified in this section has been
17 updated to reflect the change from
18 filing on paper forms to electronic
19 reporting. This is done using the
20 online reporting tool "Redbud".

21 252:100-5-3 Confidentiality of
22 proprietary information. The
23 Oklahoma Statute listed under this
24 section has been changed to reference
25 the correct statute.

Page 13

1 facilities from reporting partial
2 year emission inventories for the
3 2013 reporting year. A copy of the
4 revisions to 252:100-5-2.1(b) can be
5 found in your folder. The new
6 language reads as displayed on the
7 screen. This would pretty much
8 eliminate the two texts in (a) and
9 (b). That specified three and six
10 years and brings it back to tying
11 directly to the National Emission
12 Inventory Three-Year Cycle. It would
13 also insert December 31, 2014 into
14 the top of the section as the start
15 date for the facilities registered
16 after 2014.

17 Devon provided written
18 comments, requesting that PBR
19 facilities only be required to submit
20 an emission inventory for the first
21 year of registration and upon special
22 request by the director thereafter,
23 if facility emissions were greater
24 than 10 tons per year.

25 Although these individual

Myers Reporting

Sheet 5 Page 14

1 facilities have relatively small
2 emissions, the aggregate emissions
3 from the Oil and Natural gas
4 production sector represent a very
5 large portion of the total statewide
6 emissions. An accurate and
7 comprehensive emission inventory is
8 critical for program planning
9 purposes. Staff does not recommend
10 any revisions in response to this
11 comment.

12 EPA Region 6 provided written
13 comments recommending a threshold of
14 0.5 tons per year for lead emission
15 facilities. Staff does not recommend
16 any revisions in response to this
17 comment as most of these facilities
18 are already inventoried by the
19 Division and we do not anticipate
20 registering for a PBR.

21 Oklahoma Independent Petroleum
22 Association provided written comment
23 requesting that PBR facilities only
24 be required to submit emission
25 inventories if emissions were greater

Page 15

1 than 25 tons per year. These
2 inventories would be for the first
3 year of registration, and upon
4 special request by the director
5 thereafter. Additionally, OIPA
6 recommended that DEQ adopt minimum
7 emissions reporting thresholds of 0.1
8 tons per year for HAP emissions and
9 0.5 tons per year for all other
10 regulated air pollutants.

11 As stated previously, it is
12 important to have an accurate and
13 comprehensive emission inventory for
14 this sector. Typically, individual
15 thresholds are assigned using
16 reporting guidance rather than a
17 permanent state rule. This allows
18 flexibility to deal with the daily
19 requirements of EPA. AQD staff plan
20 to review these thresholds in the
21 near future.

22 At this time staff does not
23 recommend any revisions in response
24 to these comments.

25 Staff requests that the

Page 16

1 proposed amendments to Subchapter 5
2 as reviewed at this hearing be
3 forwarded to the Environmental
4 Quality Board with the recommendation
5 that they be adopted as permanent
6 rule changes.

7 I will now turn it back over
8 to the Council for questions.

9 MS. BOTCHLET-SMITH: We can
10 take questions from the Council at
11 this time.

12 MS. LODES: One of my first
13 questions on this is I'm looking at
14 it to understand. It says right now
15 -- so you're going to report -- you
16 register the PBR and you're going to
17 report your first calendar as 2014
18 and if it's got actual emissions
19 greater than 5 tons it would be
20 every -- well, it works out to every
21 three years, and if it's less than
22 five it would basically be every six.

23 MR. WEIS: Yes, that is
24 correct.

25 MS. LODES: Now, to play

Page 17

1 devils' advocate here, you're
2 registered and you run the facility
3 for, say, three months in that first
4 year; the 2014-year or 2015-year,
5 whatever it is. So your emissions
6 are less than 5 tons. Obviously,
7 the next year, your emissions would
8 be over the 5 tons. Does that
9 change what your reporting cycle is?

10 MR. WEIS: I believe so. I
11 believe we'd handle that as far as
12 when you would file.

13 So if you were to file an
14 inventory in 2014 under 5 tons, then
15 your next reporting would be six
16 years from then.

17 MS. LODES: Right.

18 MR. WEIS: That's my
19 understanding. Even if the emissions
20 went 4 or 5 tons.

21 MS. LODES: Okay. So even
22 if your emissions increased, and
23 during that time frame, you would
24 still be on that six-year cycle?

25 MR. WEIS: I believe so.

Myers Reporting

Sheet 6 Page 18

1 MS. LODES: Okay.
2 MR. WEIS: Mark Gibbs might
3 have a better answer.
4 MS. LODES: I'm not
5 surprised to see him hiding out back
6 there.
7 DR. GIBBS: Mark Gibbs,
8 Manager of the Emissions Inventory
9 Section. To clarify that, you would
10 be based on your actual emissions
11 during the reporting year. So let's
12 say you came in in 2015 and you had
13 3 tons --
14 MS. LODES: Uh-huh.
15 DR. GIBBS: -- emissions
16 (inaudible) you wouldn't report for
17 2016, but the key thing would be
18 what would be your emissions, your
19 actual emissions in 2017. Ten (10)
20 tons in 2017 you would be required
21 to report then.
22 MS. LODES: Okay. So --
23 DR. GIBBS: It's based on
24 actual emissions during the reporting
25 year.

Page 19

1 MS. LODES: Okay. So that
2 does make a difference there in the
3 clarification. So even if you are,
4 quote, on what appears to be a
5 six-year cycle, you would still need
6 to evaluate it basically every three
7 years to see if you have triggered
8 that threshold for requiring
9 reporting?
10 DR. GIBBS: That would be
11 correct.
12 MS. LODES: Okay. Does
13 anybody else have any questions while
14 I digest this?
15 DR. LYNCH: I have one.
16 For point of clarification. It says
17 in the document here that -- I'll
18 just read it so I don't mess it up.
19 "While many individual oil and
20 natural gas facilities have relative
21 small emissions, the aggregate
22 emissions from this sector represents
23 a very large portion".
24 So (inaudible) can you
25 semi-quantify what a very large

Page 20

1 portion is?
2 MR. WEIS: I can. Mark
3 might want to answer this one.
4 DR. LYNCH: Ten percent, or
5 90 percent?
6 MR. WEIS: According to the
7 2008 NEI data which is published by
8 the EPA, not by us -- these
9 facilities currently fall underneath
10 area source emissions because they
11 would be non-point emissions, which
12 make up 51 percent of the State's
13 emissions, statewide. And out of
14 these, an estimated 33 percent of
15 that is oil and gas production.
16 With that perspective, we have
17 on-road which is about 10 percent of
18 our total VOC emissions. So it
19 represents about what a third of the
20 State's total emissions, oil and gas
21 production is. I guess there would
22 be 40 -- about 45 is total oil and
23 gas, including point sources. So
24 it's a very significant sector for
25 emissions.

Page 21

1 DR. LYNCH: Okay.
2 MS. BOTCHLET-SMITH: Other
3 questions from the Council?
4 MS. LODES: I'm considering
5 if we need to clarify in here the
6 wording where Mark is saying
7 basically you're still going to have
8 to evaluate it, that's what I was
9 trying to digest. We'll open it up
10 to the public and I may come back,
11 because I'm afraid that's unclear in
12 the regulations, that you're going to
13 have to evaluate it.
14 MS. BOTCHLET-SMITH: Okay.
15 Anyone else on the Council have a
16 question at this time?
17 DR. LYNCH: I have just one
18 more. What fees are these? You'll
19 be charged per ton?
20 MR. WEIS: Yes, per ton of
21 emission inventory fees, which I
22 believe the minor source rate is 2515
23 (twenty-five fifteen) per year. I'll
24 ask Mark to clarify that.
25 (Inaudible comments)

Myers Reporting

Sheet 7 Page 22

1 MS. LODES: But the Agency
2 won't collect fees for these sources
3 and those two-year gaps where they
4 don't report; is that correct? Or
5 are you going to charge them based
6 on the prior years' EI?

7 MR. WEIS: It's my
8 understanding that they will be
9 charged on prior years' EI. And in
10 the text it provides -- if you look
11 in the section after part 2, Permit
12 by Rule, it just has a minimum. So
13 you have the option to up this every
14 year if your emissions do decrease
15 significantly so you'll be stuck in
16 that next year, but if you do not
17 report next year then you'll be
18 charged on the previous years.

19 MS. LODES: Okay. So where
20 is that?

21 MR. WEIS: It's in Section
22 2 -- that Permit by Rule. It says
23 shall submit at a minimum an annual
24 emission inventory in 2014.

25 MS. LODES: I guess I was

Page 23

1 looking for where it said that the
2 fees would be charged based off of
3 minor sources.

4 MR. WEIS: I think that
5 falls in --

6 MS. LODES: The part of 5
7 we don't have printed yet?

8 MR. WEIS: It should be
9 under Method of Calculation.

10 Also it should be under -- I
11 believe it's in the Oklahoma State
12 Statutes. It says requirement for
13 charging operating fee for all
14 permitted sources. I believe that's
15 where we got that from. And then
16 there is also a requirement in here
17 where they charge whether an
18 inventory is filed or not. Just one
19 second.

20 (Pause)

21 MS. LODES: I was just
22 curious. I guess the fee part must
23 be over in where the actual fees
24 are. It's not in the part we have
25 printed. Mark might know. It looks

Page 24

1 like Mark knows off the top of his
2 head.

3 DR. GIBBS: Sure. To
4 clarify that. It's not printed here.
5 In section 5:2.2, the rules provide
6 the authority to -- we must collect
7 -- we must fee permit sources every
8 year regardless of whether an
9 inventory has been collected or not.

10 MS. LODES: Okay.

11 DR. GIBBS: You can choose
12 to be feed on your allowables
13 (inaudible) be the case for these
14 Permit by Rules. So it would be
15 based on the last previous year that
16 was submitted. That's why it's so
17 important to receive inventory for
18 that first year. If it was only for
19 three months, okay, that might be a
20 benefit. (Inaudible).

21 MS. LODES: Okay. Thank
22 you.

23 MS. BOTCHLET-SMITH: At this
24 time let's take some comments from
25 the public. I did note that Brian

Page 25

1 Woodard was going to speak. Are you
2 still interested in doing so?

3 MR. WOODARD: Sure. I
4 guess to begin with on the threshold
5 first --

6 MS. BOTCHLET-SMITH: Would
7 you state your name and your
8 affiliations.

9 MR. WOODARD: Brian Woodard
10 with the Oklahoma Independent
11 Petroleum Association. Good morning
12 all.

13 For the threshold of individual
14 pollutants, I didn't know -- there
15 wasn't a whole lot of discussion on
16 that. Was the Council agreeable to
17 that 0.1 threshold that we proposed
18 in here?

19 I guess I'll ask that and hope
20 to hear more from you on that. And
21 then just mention that as our
22 industry retains, (inaudible) other
23 folks to do conduct these emissions
24 inventories? Currently, it's set at
25 a one thousand (1,000) ton per year

Myers Reporting

Sheet 8 Page 26

1 threshold and so calculating all
2 these out and recording all that
3 data, hopefully, adds additional time
4 and ultimately that means additional
5 resources are expended from our
6 operators. So I just think that the
7 information quantified at a one-tenth
8 of ton threshold would be a quality
9 reporting threshold. So I was just
10 going to mention that.

11 And as you all know we're
12 going to have a significant number of
13 facilities going from a 40 ton per
14 year permit threshold down to a five
15 ton per year, due to the federal
16 NSPS (0000). So all of the sudden
17 we're going to have this influx of
18 thousands of facilities that are now
19 going to be permit applicable. And
20 that's why we proposed to even take
21 this from a three to six year kind
22 of threshold at that 5 ton per year
23 bar up to a 25 ton. So just to make
24 it more clear, we had 40 and we were
25 not having to conduct these, now all

Page 27

1 of the sudden we divided that by 8
2 and it turned into a 5 ton per year
3 threshold and we now have to report.
4 And if we can, at least, achieve
5 something to take that 5 ton per
6 year bar up to a 10 or a 25, you
7 know, based on the comments we just
8 had, also, I would hope that our
9 initial registration would suffice
10 for the initial year. As we can see
11 there's some issues brought up if
12 we're reporting -- or conducting
13 emissions inventory for a two or
14 three-month cycle and we would fall
15 under that five ton per year bar.
16 And then the next time we would have
17 to hit every third year, if we're
18 over the five year.

19 So for instance, I think it
20 was brought up if we followed
21 September and we had 3 tons, but on
22 an annualized basis or on a calendar
23 year basis we would have a 12 ton
24 per year facility, we would have to
25 report and then report again. And I

Page 28

1 just think that's going to be an
2 additional burden for operators to
3 keep up with. So I was going to ask
4 why can't we just utilize the initial
5 permitted application essentially for
6 that initial year and then look at
7 that three to six-year period.

8 So that would be my general
9 comments.

10 MS. BOTCHLET-SMITH: Do we
11 have anyone else from the public that
12 wants to make a comment on today's
13 rule?

14 Seeing none, I'll turn this
15 back to the Council and see if you
16 have any additional questions.

17 MS. LODES: Especially on
18 the HAPS thresholds, the .001, I know
19 we've got a response that you all
20 plan on evaluating and seeing if
21 you're going to revised that upwards
22 by some degree. Mark?

23 What do we think the odds of
24 that being revised upwards? I'm not
25 opposed to putting something in the

Page 29

1 regulation to keep us from having to
2 go down to that.

3 DR. GIBBS: Yeah, if there
4 is a HAPS, there are HAPS.

5 MS. LODES: Right.

6 DR. GIBBS: (Inaudible)
7 extreme view, all HAPS are important
8 at any level. And if they're not
9 important then, is a whole process to
10 petition EPA to delist them. We
11 need to structure (inaudible) beyond
12 that, we need to look at what's most
13 important for public health. And if
14 there are well-known recognized
15 factors that can be used perhaps a
16 combustion emissions and we're
17 getting consistent information like
18 what we have collected for the last
19 three years, I think that would
20 certainly be reasonable to relax
21 that. I cannot see how you could
22 possibly relax thresholds for
23 Mercury, lead, and chromium, but that
24 would be applicable for most of these
25 industries. So I can certainly see

Myers Reporting

Sheet 9 Page 30

1 it being upwardly revised.
2 I don't want to make any
3 commitment to any kind of number for
4 you, but we could certainly be
5 increasing it for most pollutants
6 above .001 (inaudible). Perhaps .01.

7 MS. LODES: I know some of
8 our neighboring states do have a
9 higher threshold for when you
10 actually have to specie it down to
11 that level.

12 DR. GIBBS: Right.

13 MS. LODES: And I mean
14 that's --

15 DR. GIBBS: There are other
16 thresholds that other states have
17 lower thresholds as well.

18 MS. LODES: And you are
19 correct. I mean, there's a mix
20 there. And I'm not saying that HAPS
21 aren't important but it is very labor
22 intensive especially for these oil
23 and gas facilities when you're
24 speciating heater emissions for
25 Acrolein down to .001.

Page 31

1 DR. GIBBS: I believe that
2 we can certainly look at simplifying
3 that. I think there's a good case
4 for saying, look we need criteria
5 pollutants for most of these
6 facilities for most processes but I
7 can't commit to saying which at this
8 point without more analysis. Like I
9 said, we see that, that's why we are
10 optimistic that we can do that.

11 MS. LODES: Okay.

12 MR. TERRILL: And we would
13 like to get comments back from the
14 regulated community too as we're
15 considering this. So we do want
16 some input. We talked about that
17 this morning, we are going to make a
18 commitment to take a look at that
19 fairly quickly. So I don't know if
20 we're going to be able and come back
21 --

22 MS. LODES: I think the
23 regulated community wants to raise
24 that level.

25 MR. TERRILL: Yeah, I know

Page 32

1 that, but I'm -- some feedback is
2 what those ought to be. In other
3 words, we want to have some dialogue
4 with them so that what we come back
5 with is something everybody can live
6 with.

7 MS. LODES: Okay. I would
8 appreciate that. I mean it's a lot
9 of extra data points in your
10 database.

11 DR. GIBBS: Right. And as
12 I said we collected three years'
13 worth of data at this point.

14 MS. LODES: Thanks, Mark.

15 MS. BOTCHLET-SMITH: Any
16 other questions from the Council?

17 MS. LODES: Well, actually I
18 should ask one more. I know they
19 brought up going to 25 tons from the
20 5 tons, why the 5 ton threshold as
21 opposed to a 10 ton or a higher ton?

22 MR. WEIS: I believe the 5
23 ton threshold is already in the rule
24 previous to this.

25 MS. LODES: For the

Page 33

1 diminimus? I mean, is that -- I
2 know that's (inaudible) for diminimus
3 facilities. Is that the basis for
4 the 5 ton threshold?

5 MR. WEIS: It's from the
6 prior rule. It was for facilities
7 registered under the PBR. They're
8 required to report every year if
9 they're over 5 tons, and every five
10 years if they're under 5 tons.

11 MS. LODES: Okay.

12 MR. WEIS: So we're stuck
13 with this 5 ton threshold because we
14 also have other PBR facilities other
15 than oil and gas facilities
16 (inaudible).

17 MS. BRADLEY: Cheryl
18 Bradley, Manager of the Rules and
19 Planning Group. When we evaluated
20 establishing the PBR classification
21 we started with a permitting system
22 that required an individual permit or
23 a general permit for every source
24 with actual emissions of 5 tons or
25 more. Historically, we had permitted

Myers Reporting

Sheet 10 Page 34

1 all sources up one pound per hour
2 and that had been in the SIP for
3 years. With the evaluation of a
4 better way to do permitting we
5 stratified the groups into major
6 sources which we were obligated to
7 permit under Title V, an RPSD, and
8 those between 5 tons and less than
9 100 tons into categories. And we
10 created the permit exempt category of
11 5 to 40 tons. That was to address
12 our permitting resources as well as
13 request from the industry. So,
14 historically, the 5 tons have been in
15 place in the permitting program as
16 the division between what was
17 considered a source that we should
18 permit and those that were diminimus.
19 But as EPA has moved the
20 applicability down to address smaller
21 and smaller sources, that 5 tons has
22 come within our permitting domain so
23 that we are now permitting some
24 sources below 5 tons. But that was
25 the main reason for 5 tons.

Page 35

1 MS. LODES: I guess, if
2 you're feeling based off whatever the
3 prior EI was, so you're still going
4 to get your fees whether we report
5 at 5 tons, or 15 tons, or 25 tons,
6 and you have to evaluate it every
7 set of reporting years to see if
8 you've gone over whatever the
9 threshold is to see if you're
10 reporting on a three-year or six-year
11 basis. Is that 5 tons really that
12 critical or could we move that up
13 some so, like, based on some of
14 these small sources, you're still
15 going to get your fee money off of
16 them, and really is it going to make
17 a difference if they reported 6 tons
18 in one year, and 9 tons in the next
19 three-year, or could we have moved
20 that bar up so it really wasn't that
21 high of a difference?
22 I guess that's my question, can
23 we -- I know OIPA suggested 25 tons,
24 is there any room in there to give
25 something, with some of that? I

Page 36

1 know we've always used 5 out of
2 habit, but is there a reason to not
3 use it?
4 DR. GIBBS: Well the
5 argument would be why would you have
6 it as high as 5 tons? In Wyoming
7 there is no lower limit, in Colorado
8 it's 2 tons and we really need to be
9 collecting information, that is a
10 very important sector and we need to
11 collect actual information about
12 their operations during the
13 tri-annual year.
14 MR. TERRILL: I think one
15 thing we can commit to though is --
16 I think the critical years for us
17 relative to ozone is probably going
18 to happen between '14 and '17 would
19 be my guess. So I don't think
20 there's anything wrong with coming
21 back and looking at this once we
22 have two sets of tri-annual years and
23 see if there's a need to adjust
24 that. The other problem we would
25 have, if we were to change this now

Page 37

1 without giving EPA the opportunity to
2 comment, I'm concerned that they,
3 since they wanted us to go even
4 lower, and they never have liked our
5 permit exempt rule, that that might
6 create unnecessary problems for us
7 and for the regulated community. So
8 I'd prefer to leave it the way we
9 suggested it, at least for the
10 2014/2017 year, and then we'll see
11 what kind of data we get and
12 evaluate whether or not we can adjust
13 that at that point. That would be
14 my preference anyway.
15 MS. LODES: Okay. What I
16 would like to see, I mean, if -- you
17 know, I can understand why you're
18 doing it for ozone and maybe that's
19 something down the line we can look
20 at. You know, in Texas they
21 actually have a different reporting
22 if you're ozone -- if you're in an
23 ozone non-attainment versus an
24 attainment area --
25 MR. TERRILL: Right.

Myers Reporting

Sheet 11 Page 38

1 MS. LODES: -- attainment
2 areas Permit by Rule sources don't
3 report any EIs at all.
4 Non-attainment EIs are reported at a
5 10 ton threshold if you're over 10
6 tons of VOC or 25 tons of NOx, then
7 maybe that's something for us to look
8 at.
9 DR. GIBBS: Just to clarify,
10 that's 10 tons annually.
11 MS. LODES: Ten (10) tons
12 annually of VOC or 25 tons of NOx.
13 If you're over either of those
14 thresholds in a non-attainment area
15 you must submit an annual emissions
16 inventory for a Permit by Rule
17 source. And if you are -- and it is
18 an annual. It's not the every
19 three-year, which we are getting some
20 relief here.
21 DR. GIBBS: That's right.
22 MS. LODES: I appreciate
23 that. I'm just -- but a Permit by
24 Rule source in western Texas doesn't
25 report at all, ever.

Page 39

1 DR. GIBBS: That would be
2 correct.
3 MS. LODES: Correct.
4 DR. GIBBS: They use more
5 detailed area inventories and more
6 detailed surveys to collect that
7 emissions' data.
8 MS. LODES: Correct. And
9 so that's where -- I can understand
10 when we're facing a non-attainment
11 situation but maybe down the road
12 that's something that we need to look
13 at, because if we can't separate it
14 out, attainment area versus
15 non-attainment -- I mean, if you're
16 out in Roger Mills County, it doesn't
17 matter as much as if you're in
18 Canadian County.
19 DR. GIBBS: That may be the
20 case but we also have as ozone
21 standards go lower would start to be
22 more and more concerned about the
23 regional significance as a whole and
24 we're also concerned about the
25 transport rule. So we are concerned

Page 40

1 about the state as a whole.
2 MS. LODES: Thank you.
3 MS. BOTCHLET-SMITH: Do you
4 have a question or additional
5 comments?
6 MR. WOODARD: Just a
7 follow-up please.
8 MS. BOTCHLET-SMITH: Okay.
9 Just remember to identify
10 yourself, again. Thank you.
11 MR. WOODARD: Brian Woodard,
12 Oklahoma Independent Petroleum
13 Association. I know Colorado and
14 Wyoming were mentioned, and Texas was
15 as well, but our neighboring states,
16 Texas and New Mexico, have certain
17 air quality thresholds. They have
18 non-attainment areas and in these
19 true attainment areas as was
20 mentioned, their threshold for
21 reporting is 25 tons per year. I
22 think their area source facilities
23 probably make-up a significant
24 quantity of their air emissions as
25 well and they're compliant with EPA's

Page 41

1 standards. And so I just wanted to
2 point that out in recognizing that we
3 have some issues coming in 2014 and
4 2017. I would like to see us go
5 ahead and take a little higher
6 threshold approach if at all
7 possible. And why I'm saying that
8 is if we could meet that 10 or 25
9 ton bar we're going to be actually
10 outperforming our neighboring states
11 with their 25 ton per year threshold
12 and we've still expressly retained
13 the ability under a special inventory
14 year for the Director to request an
15 inventory for any area to assist us
16 with those federal rules coming
17 forth. So I would hope that we
18 could go ahead and make that in the
19 rule now.
20 DR. GIBBS: I'm going to
21 clarify states with -- other states
22 with significant oil and gas
23 operations. Wyoming has no upper
24 limit inventory. In Colorado, which
25 has issues with attainment -- 2 tons

Myers Reporting

Sheet 12 Page 42

1 everywhere, one (1) ton in the
2 non-attainment area threshold?
3 MR. TERRILL: I guess my
4 concern here is if we make these
5 changes now without consideration of
6 the overall impact relative to what
7 we suggested, I would prefer we send
8 this back and not do anything with
9 it until we have had time to
10 consider OIPA request. It came in a
11 couple of days ago and I would
12 really hate for us to miss that
13 deadline, but I'm not comfortable
14 moving this bar at this Council
15 meeting without us having the chance
16 to take a look at it. So I'd prefer
17 to leave it as it is and then we'll
18 come back and take a look at it like
19 we said we would rather than adjust
20 it, because if we're going to do
21 that, then we need to, like Mark
22 said, consider what is truly going on
23 because everybody has got a little
24 bit different situation, and we felt
25 like this was a good compromise

Page 43

1 relative to what we felt like we
2 need, especially, given the
3 understanding that we had when we did
4 the Permit by Rule -- not Permit by
5 Rule, but permit exempt -- was that
6 at some point in time we would have
7 to ask for detailed inventories and
8 everybody was in agreement that, oh,
9 yeah, if we move that bar to 40 tons
10 then at some point when we need
11 detailed inventories we won't have
12 this push-back. Well, here we are,
13 and now we're getting the push-back.
14 So you can't have it five years ago
15 one way and then change the rules
16 now. That's my point. So if we
17 want to evaluate the proposal I would
18 prefer to put this off and we'll
19 bring it back again which will hamper
20 the PBR reporting for this coming
21 cycle rather than clarify it.
22 So, again, I think we came up
23 with a pretty good compromise,
24 something that I know is going to be
25 a little bit more burdensome to the

Page 44

1 industry but they've had several
2 years of when they didn't have to
3 report anything at the 40 tons. So
4 we really need to see what's going
5 on out there statewide with all of
6 our sources, especially the oil and
7 gas for the '14/'17 cycles and then
8 we'll come back and take a look at
9 it like we said we would.
10 MS. BOTCHLET-SMITH: Any
11 final questions or comments from the
12 Council?
13 Hearing none, Laura, it's back
14 to you.
15 MS. LODES: We have a
16 proposal by the Agency for a rule to
17 pass today, that's been the
18 recommendation.
19 Do I have a motion? The
20 Agency recommendation was to pass as
21 proposed in our packet.
22 Do I have a motion?
23 MR. HAUGHT: I'll move to
24 pass. I'll move to accept the
25 proposed changes to Subchapter 5 as

Page 45

1 proposed.
2 DR. LYNCH: I'll second
3 that.
4 MS. LODES: I have a motion
5 and a second.
6 Quiana, will you please call
7 roll.
8 MS. FIELDS: Mr. Butcher.
9 MR. BUTCHER: Yes.
10 MS. FIELDS: Mr. Dunkerley.
11 MR. DUNKERLEY: Yes.
12 MS. FIELDS: Mr. Gamble.
13 MR. GAMBLE: Yes.
14 MS. FIELDS: Mr. Haught.
15 MR. HAUGHT: Yes.
16 MS. FIELDS: Dr. Lynch.
17 DR. LYNCH: Yes.
18 MS. FIELDS: Ms. Myers.
19 MS. MYERS: Yes.
20 MS. FIELDS: Ms. Lodes.
21 MS. LODES: Yes.
22 MS. FIELDS: Motion passed.
23 MS. BOTCHLET-SMITH: The
24 next item on the Agenda is Number
25 4B, OAC 252:100-5. Registration,

Myers Reporting

Sheet 13 Page 46

1 Emission Inventory and Annual
2 Operating Fees for consideration as
3 an emergency rule.

4 Again, Mr. Weis will present.

5 MR. WEIS: Madam Chair,

6 Members of the Council, ladies and
7 gentlemen. As you know, I'm Matt
8 Weis, Environmental Programs
9 Specialist with the Air Quality
10 Division. AQD staff would like to
11 request that the Subchapter 5
12 revisions amending 252:100-5-2, -2.1,
13 -3 that the Council just voted to
14 recommend for approval to the
15 Environmental Quality Board as a
16 permanent rule also to recommend for
17 approval as an emergency rule.

18 In order for a rule to be
19 promulgated as an emergency rule, a
20 "finding of emergency" must be made.
21 In order for such a finding, the
22 relevant statute provides that there
23 must be "substantial evidence" that
24 rule is necessary as an emergency in
25 order to satisfy one of the following

Page 47

1 five criteria:

2 One. Protect public health,
3 safety, or welfare.

4 Two. Comply with deadlines in
5 amendments to the agency's governing
6 law or federal programs.

7 Three. Avoid violation of
8 federal law or regulation or other
9 state law.

10 Four. Avoid imminent reduction
11 in the agency's budget.

12 Five. Avoid serious prejudice
13 to the public interest.

14 In the event that the rules
15 are approved as emergency rules by
16 the Council, then they will go to
17 the Board and the Governor for
18 approval. If approved, then the
19 emergency rules would go into effect
20 immediately upon the Governor's
21 approval and remain in effect until
22 July 14, 2014, or as anticipated, in
23 this case superseded by the permanent
24 rule on July 1st of 2013.

25 AQD staff believe there is

Page 48

1 sufficient evidence to justify a need
2 for emergency passage under criteria
3 Number Five, "Avoid serious prejudice
4 to the public interest". The
5 justification is as follows:

6 An emergency rulemaking would
7 serve the public interest by aligning
8 the permitting and emission inventory
9 requirements for PBR facilities and
10 ensuring there is no ambiguity about
11 the reporting expectations for these
12 numerous sources.

13 An emergency rulemaking would
14 eliminate the possibility of
15 retroactive reporting requirements
16 and ensure all emission inventory
17 reporting requirements are known and
18 effective before the actual reporting
19 period begins for the 2014 calendar
20 year.

21 An emergency rulemaking would
22 reduce the regulatory burden on the
23 subject facilities by specifically
24 exempting them from the requirement
25 to submit a partial year emission

Page 49

1 inventory for operations during the
2 2013 calendar year. It should be
3 noted that this partial period data
4 is not necessary, as it would not be
5 adequate to support the Department's
6 program planning efforts.

7 Additionally, an emergency
8 rulemaking would delay the emissions
9 inventory reporting deadline for
10 these newly permitted facilities by
11 one year and allow the Department
12 additional time to prepare for the
13 expected increase in emission
14 inventories from the oil and natural
15 gas sector.

16 It should also be noted that
17 the 2014 NEI data is very likely to
18 be the most recent complete emission
19 inventory before 2016, when EPA plans
20 to make designations for the 8-hour
21 Ozone NAAQS. The quality and
22 completeness of the 2014 emission
23 inventory will be critical for
24 program planning, in the event that
25 an area of the state is designated

Myers Reporting

Sheet 14 Page 50

1 non-attainment.
2 If the Council believes that
3 there is substantial evidence that
4 the justifications provided by AQD
5 staff support the conclusion that an
6 emergency rule would "avoid serious
7 prejudice to the public interest",
8 then the Council may make a finding
9 of emergency and recommend approval
10 of the rules as an emergency to the
11 Environmental Quality Board.
12 Now I'll turn it back to the
13 Council.
14 MS. BOTCHLET-SMITH: Do we
15 have any questions from the Council?
16 DR. LYNCH: Just so I'm
17 clear about it, so making -- having
18 this as an emergency will speed
19 things up. How much?
20 MS. BOTCHLET-SMITH: Can you
21 restate the schedule, Matt.
22 MR. WEIS: I believe this
23 will become effective -- if you pass
24 the emergency rule this will become
25 effective January 1, 2013.

Page 51

1 MR. SINGLETARY: Actually
2 when the Governor signs it.
3 MR. WEIS: Okay. It would
4 be July 2015 -- or 2014 -- which
5 would be halfway through the
6 reporting cycle for that year.
7 MS. MYERS: If we don't
8 pass it as an emergency rule then
9 they don't get the emissions
10 inventory in April of next year?
11 MR. WEIS: It will require
12 all of these facilities to file a
13 partial year inventory from the time
14 that they register as a PBR until
15 the end of the year.
16 MS. MYERS: Thank you.
17 MS. BOTCHLET-SMITH: Do we
18 have any comments from the public?
19 Hearing or seeing none, I'll
20 turn it back to the Council for any
21 questions.
22 MS. LODES: Staff has
23 recommended that we pass the rule as
24 an emergency rule.
25 Do we have a motion?

Page 52

1 MS. MYERS: I so move.
2 MR. BUTCHER: I'll second
3 that.
4 MS. LODES: I have a motion
5 and a second.
6 Quiana, would you please call
7 roll.
8 MS. FIELDS: Mr. Butcher.
9 MR. BUTCHER: Yes.
10 MS. FIELDS: Mr. Dunkerley.
11 MR. DUNKERLEY: Yes.
12 MS. FIELDS: Mr. Gamble.
13 MR. GAMBLE: Yes.
14 MS. FIELDS: Mr. Haught.
15 MR. HAUGHT: Yes.
16 MS. FIELDS: Dr. Lynch.
17 DR. LYNCH: Yes.
18 MS. FIELDS: Ms. Myers.
19 MS. MYERS: Yes.
20 MS. FIELDS: Ms. Lodes.
21 MS. LODES: Yes.
22 MS. FIELDS: Motion passed.
23 MS. LODES: Thank you.
24 MS. BOTCHLET-SMITH: That
25 concludes the hearing portion of the

Page 53

1 Agenda.
2 (Proceedings concluded)

Myers Reporting

Sheet 15 Page 54

C E R T I F I C A T E

1
2 STATE OF OKLAHOMA)
3) ss:
4 COUNTY OF OKLAHOMA)
5 I, CHRISTY A. MYERS, Certified
6 Shorthand Reporter in and for the
7 State of Oklahoma, do hereby certify
8 that the above proceeding is the
9 truth, the whole truth, and nothing
10 but the truth; that the foregoing
11 proceeding was taken down in
12 shorthand and thereafter transcribed
13 by me; that said proceeding was taken
14 on the 17th day of July, 2013, at
15 Oklahoma City, Oklahoma; and that I
16 am neither attorney for, nor relative
17 of any of said parties, nor otherwise
18 interested in said action.
19 IN WITNESS WHEREOF, I have
20 hereunto set my hand and official
21 seal on this, the 29th day of July,
22 2013.
23 *Christy A. Myers*
24 CHRISTY A. MYERS, CSR
25 Certificate No. 00310



AIR QUALITY COUNCIL
Attendance Record
July 17, 2013
Oklahoma City, Oklahoma

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AIR QUALITY COUNCIL

Attendance Record

July 17, 2013

Oklahoma City, Oklahoma

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