

**MINUTES**  
**AIR QUALITY COUNCIL**  
**July 19, 2006**  
**707 North Robinson**  
**Oklahoma City, Oklahoma**

Approved AQC  
October 18, 2006

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. July 19, 2006 in the DEQ Multipurpose Room, 707 N. Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on December 5, 2005. Agendas were posted on the entrance doors of the 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. Mr. David Branecky, Vice-Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

**MEMBERS PRESENT**

David Branecky  
Bob Curtis  
Bob Lynch  
Jerry Purkapple  
Rick Treeman  
Laura Worthen

**MEMBERS ABSENT**

Sharon Myers  
Gary Martin  
Don Smith

**OTHERS PRESENT**

Christy Myers, Court Reporter

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Scott Thomas  
Joyce Sheedy  
Max Price  
Heather Bragg  
Morris Moffett  
Matt Paque

**DEQ STAFF PRESENT**

Rhonda Jeffries  
Dawson Lasseter  
Philip Fielder  
Kendal Stegmann  
Pat Sullivan  
Nancy Marshment  
Jamie Fannin  
Myrna Bruce

**Transcripts and Attendance Sheet are attached as an official part of these Minutes**

**Approval of Minutes** Mr. Branecky called for approval of the April 19, 2006 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Curtis made the motion with Ms. Worthen making the second. Roll call as follows with motion passing.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-1. General Provisions [AMENDED]**

**OAC 252:100-8. Permits for Part 70 Sources [AMENDED]**

**OAC 252:100-37. Control of Emission of Volatile Organic Compounds (VOCs) [AMENDED]**

**OAC 252:100-39. Emission of Volatile Organic Compounds (VOCs) in Nonattainment Areas and Former Nonattainment Areas [AMENDED]**

Mr. Max Price advised that the proposed amendments would clarify and/or remove redundant definitions from Chapter 100. He added that the revisions were extensive; therefore, staff asked for continuation of the rulemaking to allow for public comment. Mr. Branecky opened the floor for comments and questions then entertained a motion. Mr. Rick Treeman moved to continue the hearing to Council's next meeting and the second was made by Mr. Curtis.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-2. Incorporation by Reference [NEW]**

**OAC 252:100-4. New Source Performance Standards [REVOKED]**

**OAC 252:100-40. Control of Emission of Friable Asbestos during Demolition and Renovation Operations [NEW]**

**OAC 252:100-41. Control of Emission of Hazardous Air Pollutants and Toxic Air Contaminants [REVOKED]**

**Appendix Q. Title 40, Code of Federal Regulations, Incorporation by Reference [NEW]**

Mr. Max Price advised that the proposal would add new Subchapters 2 and 40 and a new Appendix Q. Existing subchapters 4 and 41 would be revoked. Mr. Price pointed out that the purpose of the changes was to assure that all incorporations by reference to 40 CFR would have effective dates in the agency rules. He added that the revisions are extensive and that staff's recommendation was to continue the rulemaking to Council's next meeting to allow for public comment. With no comments from the public, Mr. Branecky entertained a motion. Dr. Lynch made motion to continue and Ms. Worthen made the second.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

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

Mr. Morris Moffett advised that the amendment to OAC 252:100-5-2.1(b)(3) concerned the requirement to provide a written explanation when yearly emission changes are in excess of 30 percent clarifying that requirement to be only at the request of the Department. Mr. Moffett identified another proposed amendment that would change the due date for submittal of the annual emission inventory from March 1 to April 1 of each year and removes the provision for applying for a 30-day extension. Mr. Moffett stated that comments had been received from Fort James Operating Company. Following discussion, Mr. Purkaple made motion to continue the hearing to Council's next meeting. The second was made by Mr. Curtis.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

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

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

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

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

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

Mr. Max Price advised that these proposals had first been presented at Council's April meeting. He pointed out the changes that had been made in response to public comments. Following discussion, Mr. Curtis moved to adopt the staff's recommendation with the stated changes. Mr. Treeman made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

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

Ms. Heather Bragg advised that the proposal would add a new Part 11 which would establish state emission standards and other enforceable requirements for existing OSWI. During discussion, it was determined that changes would need to be made before adoption by the Board. Mr. Purkapple made motion to table until later in the meeting to allow for time to consider whether those changes could be made during this meeting. Ms. Worthen made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Branecky reconvened the hearing to address the new changes. Ms. Bragg identified the new changes and stated that staff's recommendation was to forward the rule to the Environmental Quality Board for permanent adoption. Mr. Purkapple made the motion and Mr. Curtis made the second.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**OAC 252:100-44 Control of Mercury Emissions From Coal Fired Electric Steam Generating Units [NEW]** Mr. Morris Moffett related that the new Subchapter 44 would incorporate by reference the federal Clean Air Mercury Rule (CAMR) issued in May of 2005.

Following discussion, Mr. Branecky entertained a motion to continue the hearing to Council's October meeting. Mr. Purkapple made the motion and Ms. Worthen made the second. Mr. Terrill added that his hopes were to pass the rule in October in order to meet all the deadlines.

Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**Appendix H. De Minimis Facilities**

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

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

Dr. Joyce Sheedy advised that the Department proposes to reformat and update the information in all three lists in Appendices H, I, and J. She related that EPA requires a demonstration that each activity on each appendix complies with the appropriate definition of the de minimis activity, insignificant activity, or trivial activity. Dr. Sheedy conveyed that the demonstration is taking longer than anticipated; therefore, recommended that the hearing be tabled until such a time as the demonstration can be completed. Mr. Branecky entertained a motion to table, not continue, the hearing until such time as staff is ready to bring it back. Dr. Lynch made the motion and Mr. Curtis made the second.

Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Bob Lynch	Yes
Rick Treeman	Yes	David Branecky	Yes

**New Business** None.

**Adjournment** The meeting adjourned 11:20 a.m.

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEMS NUMBER 1 THROUGH 4A  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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MYERS REPORTING SERVICE  
Christy Myers, CSR  
(405) 721-2882

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1 MEMBERS OF THE COUNCIL

2 SHARON MYERS - CHAIR (ABSENT)

3 DAVID BRANECKY - VICE-CHAIR

4 BOB CURTIS - MEMBER

5 BOB LYNCH - MEMBER

6 GARY MARTIN - MEMBER (ABSENT)

7 JERRY PURKAPLE - MEMBER

8 DON SMITH - MEMBER (ABSENT)

9 RICK TREEMAN - MEMBER

10 LAURA WORTHEN - MEMBER

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13 STAFF MEMBERS

14 MYRNA BRUCE - SECRETARY

15 EDDIE TERRILL - DIVISION DIRECTOR

16 DR. JOYCE SHEEDY - AQD

- 17 MATT PAQUE - LEGAL
- 18 BEVERLY BOTCHLET-SMITH - AQD
- 19 MAX PRICE - AQD
- 20 HEATHER BRAGG - AQD
- 21 MORRIS MOFFETT - AQD
- 22
- 23
- 24
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- 1 PROCEEDINGS
- 2 MR. BRANECKY: Good morning.
- 3 We ll go ahead and get started with the
- 4 Council Meeting. Before we get started I d
- 5 like to remind you if you could to either
- 6 put your phones or pagers on silence or
- 7 turn them off. And before we get started
- 8 I d like to ask Myrna to explain how to use
- 9 these high-tech microphones we have and
- 10 make sure I do it right.
- 11 MS. BRUCE: Nothing really high-
- 12 tech. There s a blue button in front of

13 you, "press" to talk, "press" when you re  
14 through talking. If you don t, it will  
15 cancel out eventually. But we ve had that  
16 in the News this week so you might want to  
17 be careful.

18 MR. BRANECKY: All right.

19 MR. TERRILL: Myrna, does it work  
20 the same way up there?

21 MS. BRUCE: Yes, sir. When you  
22 come to the podium, press the blue button  
23 to talk and then press the blue button  
24 again when you re through.

25 MR. TERRILL: If you don t have a

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1 red circle around the top of your  
2 microphone is not on. Red means on.

3 MR. BRANECKY: All right. Thank  
4 you, Myrna.

5 Myrna, would you call roll, please?

6 MS. BRUCE: Yes. Mr. Purkaple.

7 MR. PURKAPLE: Here.

8 MS. BRUCE: Ms. Worthen.  
9 MS. WORTHEN: Here.  
10 MS. BRUCE: Mr. Treeman.  
11 MR. TREEMAN: Present.  
12 MS. BRUCE: Mr. Curtis.  
13 MR. CURTIS: Here.  
14 MS. BRUCE: Dr. Lynch.  
15 DR. LYNCH: Here.  
16 MS. BRUCE: Mr. Branecky.  
17 MR. BRANECKY: Here.  
18 MS. BRUCE: Absent is Don Smith,

19 Gary Martin, and Sharon Myers, but we do  
20 have a quorum.

21 MR. BRANECKY: Okay. Next item  
22 on the Agenda is the Approval of the April  
23 19th Council Minutes -- Council Meeting  
24 Minutes. Do we have any discussion of the  
25 Minutes? No discussion? I look for a

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1 Motion.

2 MR. CURTIS: I move for approval.

3 MS. WORTHEN: Second.

4 MR. BRANECKY: I have a Motion

5 for approval and a second.

6 Myrna, would you call roll, please?

7 MS. BRUCE: Mr. Purkaple.

8 MR. PURKAPLE: Yes.

9 MS. BRUCE: Ms. Worthen.

10 MS. WORTHEN: Yes.

11 MS. BRUCE: Mr. Treeman.

12 MR. TREEMAN: Yes.

13 MS. BRUCE: Mr. Curtis.

14 MR. CURTIS: Yes.

15 MS. BRUCE: Dr. Lynch.

16 DR. LYNCH: Yes.

17 MS. BRUCE: Mr. Branecky.

18 MR. BRANECKY: Yes.

19 MS. BRUCE: Motion approved.

20 MR. BRANECKY: All right. Next

21 we ll get into the public rulemaking

22 hearings and to help us with that part I d

23 like to ask Beverly to take over.

24 MS. BOTCHLET-SMITH: Good

25 morning. I am Beverly Botchlet-Smith, I m

1 the Assistant Director of the Air Quality  
2 Division and as such I'll be serving as the  
3 Protocol Officer for today's hearings.

4       These July 19, 2006 hearings will be  
5 convened by the Air Quality Council in  
6 compliance with the Oklahoma Administrative  
7 Procedures Act and Title 40 of the Code of  
8 Federal Regulations, Part 51, as well as  
9 the authority of Title 27A of the Oklahoma  
10 Statutes, Section 2-2-201, Sections 2-5-101  
11 through 2-5-118.

12       These hearings were advertised in  
13 the Oklahoma Register for the purpose of  
14 receiving comments pertaining to the  
15 proposed OAC Title 252 Chapter 100 Rules as  
16 listed on the Agenda and will be entered  
17 into each record along with the Oklahoma  
18 Register filing. Notice of the meeting was  
19 filed with the Secretary of State on  
20 December 5, 2005. The Agenda was duly

21 posted 24 hours prior to the meeting, on  
22 the doors of the DEQ.

23 If you wish to make a statement,  
24 it's very important that you complete the  
25 form at the registration table and you'll

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1 be called upon at the appropriate time.  
2 Audience members, please step to the podium  
3 when you make your comment and please state  
4 your name.

5 At this time, we will proceed with  
6 what's marked as Agenda Item Number 4A on  
7 the Hearing Agenda and that is OAC 252:100-  
8 1, General Provisions; OAC 252:100-8,  
9 Permits for Part 70 Sources; OAC 252:100-  
10 37, Control of Emission of Volatile Organic  
11 Compounds; and OAC 252:100-39, Emission of  
12 Volatile Organic Compounds in Nonattainment  
13 Areas and Former Nonattainment Areas.

14 And Mr. Max Price will be giving the  
15 staff position on these proposed rules.

16 MR. PRICE: Mr. Vice-Chairman,  
17 Members of the Council, ladies and  
18 gentlemen.

19 These proposed amendments to the  
20 definition Sections 1-3, 8-1.1, 37-2, and  
21 39-2 are being undertaken to clarify and/or  
22 remove redundant definitions from Chapter  
23 100. Among the proposals are expanded  
24 definitions for particulate matter (PM) and  
25 a refined definition for Volatile Organic

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1 Compounds (VOC).

2 We are proposing to add definitions  
3 found in 40 CFR, Part 51, subpart A,  
4 Appendix A for filterable and condensable  
5 PM. Please note that in your council memo  
6 I erroneously stated that both Appendix A  
7 and Appendix B contain these definitions.  
8 Also please note that we are not proposing  
9 to add a definition for secondary PM.  
10 These definitions are being added to

11 clarify the Department's policy of  
12 including the back half (condensable PM)  
13 in emission calculations for stack test  
14 utilizing Method 5, and Method 5 is found  
15 in 40 CFR 60, Appendix A.

16 We are also proposing to change the  
17 definition of VOC to exempt Tert-Butyl  
18 Acetate (TBAC) specifically.

19 Since these revisions are extensive,  
20 staff ask that the Council hold these  
21 proposals over until the next Council  
22 meeting to allow time for more further  
23 public comment. Thank you.

24 MS. BOTCHLET-SMITH: Do we have  
25 any comments from the Council? Questions?

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1 MR. BRANECKY: I do have a couple  
2 of questions and these are just  
3 clarification questions on my part. In the  
4 definition of air contaminant source you  
5 added the word "pollutants" after air

6 contaminants.

7 MR. PRICE: That s true, sir.

8 MR. BRANECKY: Why didn t you

9 just say source of emissions of air

10 pollutants?" Why do we have to have both

11 air contaminants and air pollutants? For

12 reference?

13 MR. PRICE: Because the term

14 (inaudible) is used in various places air

15 contaminant in our rules. That s one of

16 the things we re going to have to clean up.

17 MR. BRANECKY: Is it defined? Is

18 air contaminants defined somewhere?

19 MR. PRICE: No, sir, it s not.

20 At least not to my knowledge anyway so far.

21 MR. BRANECKY: Is air pollutants

22 defined? The word?

23 MR. PRICE: No. But everybody

24 knows what an air pollutant is, pretty

25 much. And it s one of those things that s

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1 going to take a little time to fix. That s  
2 why were having this -- this is an ongoing  
3 process to fix all of these definitions and  
4 make them consistent.

5 Air contaminants is used in a couple  
6 of places in our subchapters and it s not  
7 defined there either.

8 MR. BRANECKY: My next question  
9 is under the definition of non-methane  
10 organic compounds.

11 MR. PRICE: Yes, sir?

12 MR. BRANECKY: The definition  
13 means non-methane organic compounds as  
14 defined and measured in 40 CFR 60.754? And  
15 this is kind of a grammatical question. We  
16 don t measure -- 40 CFR 60.754 doesn t  
17 measure anything. The way it reads, is  
18 it s defined in 40 CFR 60.754 but you don t  
19 measure anything in 40 CFR. Do you see  
20 what I m saying?

21 MR. PRICE: Okay. I m going to  
22 -- yes, I understand -- well, I was under  
23 the impression that the technique for

24 measuring these emissions was contained in  
25 the same section.

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1 MR. BRANECKY: Well, yeah, but  
2 the way it reads it s --

3 MR. PRICE: Is it confusing?

4 MR. BRANECKY: I know I m knit  
5 picking.

6 MR. PRICE: That s okay. Believe  
7 it or not I like that. I like having my  
8 knit picked because I m not the brightest  
9 bulb on the lamp. I can guarantee you  
10 that. If the Council wishes we could drop  
11 as measured , it wouldn t make any  
12 difference.

13 MR. BRANECKY: That s all I have.

14 MS. BOTCHLET-SMITH: Laura.

15 MS. WORTHEN: Yes, I have one.

16 And I know I sent this in, the one on  
17 affluent water separators, actually isn t  
18 one that anybody had changed.

19 MR. PRICE: Where you at?  
20 MS. WORTHEN: Subchapter 37.  
21 MR. PRICE: Okay. Which  
22 particular definition again please?  
23 MS. WORTHEN: Affluent water  
24 separator.  
25 MR. PRICE: Under "E", I hope.

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1 Yes, ma am.  
2 MS. WORTHEN: That s one that s  
3 provided some confusion for various  
4 industry and I submitted a comment to do  
5 some clarification. Would you all look at  
6 that one since this is going to  
7 (inaudible)?  
8 MR. PRICE: Sure. We certainly  
9 have time to do that.  
10 MR. PAQUE: Was that comment  
11 submitted as part of this rulemaking?  
12 MS. WORTHEN: I emailed it to  
13 Eddie, Monday.

14 MR. PAQUE: Do you have that one  
15 in your file?

16 MR. PRICE: I don t remember it,  
17 no.

18 MR. PAQUE: I just don t remember  
19 seeing that as part of the rulemaking file.

20 MS. WORTHEN: And as I say, I had  
21 just sent it in.

22 MR. TERRILL: I sent it to Scott  
23 and to Dawson and we re going to be talking  
24 about it internally because we may not want  
25 to make it part of a rule change but we

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1 want to address the issue.

2 MS. BOTCHLET-SMITH: Any other  
3 questions from the Council?

4 Okay. I received a Notice of Oral  
5 Comment from Mr. Mike Peters; Ryan, Whaley  
6 and Coldiron.

7 Mike, would you like to step to the  
8 podium?

9 MR. PETERS: Good morning,  
10 Members of the Council. My name is Mike  
11 Peters, I m with Ryan, Whaley and Coldiron.

12 MS. BOTCHLET-SMITH: Mike, excuse  
13 me, would you push the blue button? Thank  
14 you.

15 MR. PETERS: I m not loud enough  
16 without it?

17 We submitted comments on Monday,  
18 July 17th on behalf of our client,  
19 Continental Carbon Company, and I just want  
20 to reiterate those comments. I won t go  
21 through and read those but I would like for  
22 them to be a part of the public record in  
23 this rulemaking. I understand it s going  
24 to be not proposed, final action today but  
25 to be carried forward for the next meeting.

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1 One of the things that I want to  
2 point out to the Council is what Max Price  
3 had indicated is the Department s policy

4 with regard to Method 5 testing and  
5 including the back half in determination of  
6 particulate matter, the back half with the  
7 condensable fraction. There are numerous  
8 permits that have been issued by the  
9 Department throughout the years. Many of  
10 those require Method 5 compliance  
11 demonstration testing. The emission limits  
12 are unclear as to whether they require just  
13 the front half or just the back half and  
14 recently, within the past couple of years,  
15 it s my understanding that the Department  
16 has implemented a policy to include the  
17 back half however, the permits do not  
18 reflect that. And Method 5, as  
19 specifically promulgated by EPA, did not  
20 include the back half it only included the  
21 front half to demonstrate compliance.

22 Further, the NSPS standards which  
23 contain particulate matter emission limits  
24 are based solely on the filterable fraction  
25 of the front half and not the condensable

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1 fraction.

2       So the gist of our comments are that  
3 we would request that the Council move very  
4 slowly in proposing the definitions or  
5 revising the definitions on particulate  
6 matter emissions because there will be  
7 numerous permits, numerous facilities that  
8 will be impacted by those revisions to the  
9 definitions.

10       Part of the impact or the potential  
11 impact may be increased emissions of  
12 particulate matter not previously  
13 identified, which would indicate there  
14 would be increased fees, necessary changes  
15 to permits, and potential for the  
16 insulation of control equipment, which  
17 would significantly impact industry in the  
18 State of Oklahoma.

19       I don't believe on Monday, July 17th  
20 I received a copy of the Rule Impact  
21 Statement and I don't believe those

22 concerns were identified in the Rule Impact  
23 Statement and I would request that those  
24 concerns be addressed before any final  
25 action is taken on the proposed amendments

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1 to the particulate matter definition.

2 Thank you.

3 MR. TERRILL: Let me just address

4 that. I guess we would disagree with that

5 statement that this has not been part of

6 our rules. It s been part of our rules

7 since, at least, 79 and we don t believe

8 there are that many permits, if any, out

9 there that haven t addressed the back half

10 as part of the emission limit when they re

11 looking at PM. If there are, it was an

12 oversight on our part.

13 This comes up about every 10 years

14 where there s some new group of folks that

15 don t realize, for whatever reason, that

16 the back half is included. We re trying to

17 clarify this so this doesn't come up in the  
18 future. But this is not a new requirement.  
19 All this is is to clarify and move into our  
20 rules so there is absolutely no doubt that  
21 we include back half as part of the PM  
22 calculations when we're doing -- writing  
23 permits.

24 If there are some that have been  
25 missed through an oversight, we'll fix them

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1 and we'll work with those facilities. We  
2 do not believe this should be a widespread  
3 issue.

4 MR. BRANECKY: Eddie, which rule  
5 is it currently in? You said currently  
6 it's in an existing rule?

7 MR. TERRILL: It's in our state  
8 rule. Matt, do remember exactly where is  
9 it?

10 MR. PAQUE: Well, our particulate  
11 matter definition up until 2002 during the

12 rewrite/dewrong, always defined particulate  
13 matter as a liquid or solid.

14 MR. TERRILL: And for some reason  
15 the liquid part got dropped out in 2002.  
16 We probably just screwed up when we did the  
17 rewrite/dewrong.

18 MS. WORTHEN: Eddie, I do know of  
19 other permits where this has been an issue  
20 of late. I know of, at least, one facility  
21 that s been working closely with you all  
22 because their permit, even with the stack  
23 testing, it was submitted when the Title 5  
24 was issued, does not include the back half.

25 MR. TERRILL: There are a few out

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1 there, there s no doubt about it. We, in  
2 talking to our permitting folks, we don t  
3 believe this is a widespread issue. And it  
4 has come up. And it s going to come up  
5 more because back half is becoming a major  
6 issue nationwide and the state s that

7 aren't requiring it are going to require it  
8 because we're looking at the Regional Haze  
9 Rule and back half is definitely a major  
10 part of the Regional Haze Rule.

11 So I don't think we're doing  
12 anything that's -- we haven't done anything  
13 for the last 25 years that's out of step  
14 with what's going on now, but there are a  
15 lot of states that are trying to catch up  
16 and address this issue.

17 DR. SHEEDY: It could be that  
18 when the permit -- or when the back half  
19 wasn't included it was in NSPS standard and  
20 not a demonstration of compliance with the  
21 State PM Standards because for NSPS where  
22 EPA specifically says back half isn't  
23 included, we don't include it.

24 MS. WORTHEN: I know their permit  
25 limits are based off of the front half only

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1 portion of it all, then it becomes

2 significantly higher when you include back  
3 half into there and so they re compliant  
4 and they submitted everything, but what was  
5 actually put in the permit was based solely  
6 on the front half.

7 DR. SHEEDY: Well, that shouldn t  
8 have been that way. Not for compliance  
9 with the State Standard.

10 MS. BOTCHLET-SMITH: I d just  
11 like to ask even staff members before you  
12 address the Council or the audience to  
13 identify yourselves. Those who are sitting  
14 in the back of the room can t see your  
15 faces like we can.

16 DR. SHEEDY: Sorry, Beverly.

17 MS. BOTCHLET-SMITH: That s okay.  
18 Mike, do you have another comment?

19 MR. PETERS: I do. In some of  
20 the permits it specific references the use  
21 of Method 5 to demonstrate compliance.  
22 That method has been adopted by --  
23 reference or incorporated by reference by  
24 the DEQ in its rules. I am unaware of any

25 rule where the Department indicated that it

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1 would include the back half, since Method 5  
2 specifically does not include the back  
3 half, then if it s in your permit and it  
4 says Method 5, that demonstration of  
5 compliance is filterable only, not  
6 condensable. And to the extent that the  
7 Department has had a policy, I haven t seen  
8 it in writing but I m not opposed to  
9 including condensable. I think that is a  
10 good thing. I think Eddie is right, that  
11 we re going to have to go to condensables.

12

13 My concern is, what do we do for  
14 facilities out there that have permitted PM  
15 emission limits, say for cooling towers and  
16 combustion sources and things like that,  
17 what would we do for them? Are they going  
18 to be allowed to increase their particulate  
19 matter emission limits to account for the

20 back half, are they going to be required to  
21 install controls to comply with their  
22 existing permit limits? What type of  
23 relief will be afforded to those facilities  
24 such as we've mentioned here today, in  
25 changing this definition to specifically

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1 include the back half?  
2       The other concern is, numerous  
3 emission limits have incorporated NSPS  
4 limits. Compliance with the NSPS is based  
5 solely on filterable, and if those permits  
6 have emission limits for PM based on  
7 filterable, by changing the definition, the  
8 State is going to be more stringent than  
9 the NSPS and require that you demonstrate  
10 compliance with those PM limits including  
11 both filterable and condensable  
12 particulate.

13       MS. BOTCHLET-SMITH: I have  
14 another Notice of Oral Comment on this

15 rule. Rusty Kroll; with Doener, Saunders,  
16 and he s an attorney for PSO.

17 MR. KROLL: Thank you Members of  
18 the Council. My name is Rusty Kroll. I m  
19 with the law firm Doener, Saunders, Daniel  
20 and Anderson and I represent Public Service  
21 Company of Oklahoma. And I guess a lot of  
22 my comments follow on Mr. Peters s comments  
23 and we, too, have submitted written  
24 comments this morning and made available to  
25 the Council and raised many of the current

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1 concerns that Mr. Peters has. I won t  
2 reiterate those specific issues but we ll  
3 add a little bit of a different  
4 perspective.

5 We, as we understand the rule, too,  
6 it formerly included liquids and solids.  
7 And this definition including condensable  
8 material, is by its nature including a  
9 different form of matter -- a vapor phase

10 matter, an exit of a source that happens to  
11 condense in testing apparatus.  
12 Now, obviously, there is a concern  
13 on condensable in moving toward that on the  
14 federal level. So we do understand the  
15 concerns. However, as Mr. Peters pointed  
16 out it is also our understanding that in  
17 many of the permits out there, there is  
18 only the requirement for Method 5 with the  
19 front half. Also, many of the facilities  
20 have used Method 5 to demonstrate  
21 compliance.

22 It brings into question then, what  
23 are those facilities going to do if the  
24 rule is changed? How is it going to impact  
25 entities that have existing test methods

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1 that establish compliance? That's one  
2 issue.

3 Also, with regard to Mr. Peter's  
4 comments about NSPS, there is an additional

5 concern to the extent that the Subchapter  
6 19 particulate matter standards are  
7 regulating the same topic, the same subject  
8 matter as an NSPS requirement by  
9 interpreting the PM rules to include  
10 condensables, the State Regulation is, in  
11 effect, going to be more stringent than the  
12 federal -- applicable Federal Standard.  
13 And there is a particular State Statute  
14 that comes into play when a State  
15 Regulation is being proposed that is more  
16 stringent than the Federal Regulation and  
17 it requires, among other things, a cost  
18 benefit analysis to explain why the State  
19 Regulation is a justification of the  
20 additional stringency. And that needs to be  
21 done early on in the rulemaking process and  
22 submitted to the Governor and the State  
23 Legislature.

24       We are aware of the ODEQ's policy  
25 that has been expressed to us recently to

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1 include condensables and we have made an  
2 open records request to get the regulatory  
3 history of the rule and there has been  
4 nothing provided that specifically  
5 addresses that.

6       So it appears that all there is in  
7 the record is the definitions that are in  
8 the regulations today. If there is a  
9 policy and it has not gone through the  
10 formal rulemaking process, it is not  
11 enforceable to the extent that it adds a  
12 new requirement.

13       So, again, I think we're in to this  
14 situation of what impact this has on the  
15 existing facilities. This also has a  
16 potential to tremendously impact air  
17 emissions fees. For PSO's northeastern  
18 station, there is actually more  
19 condensables from coal-fired generating  
20 equipment than there is filterable. So to  
21 the extent that other industries are  
22 impacted in the same way, it can have a

23 tremendous, even a doubling impact on the  
24 fees for particulate matter.

25 I think that the Department needs to

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1 look at to the extent to which existing  
2 facilities are going to be impacted and  
3 carefully considered going forward, how to  
4 implement the rule in such a way that these  
5 existing issues can be addressed. Thank  
6 you.

7 MS. BOTCHLET-SMITH: Is there any  
8 other comments from the public? Anyone  
9 else wishing to speak? How about  
10 additional questions from the Council?

11 MR. LYNCH: Eddie, I have a  
12 question. Are we under any kind of a time  
13 line to move quickly on this or can this  
14 take as long as we need to work out?

15 MR. TERRILL: This can take as  
16 long as we need to. This was just -- we  
17 did this in trying to clarify things so

18 this issue wouldn't come up periodically  
19 and as the case, most of the time we try  
20 something, and generally it turns out to be  
21 a little bigger exercise than we thought.  
22 We will come back at the next meeting and  
23 go into depth about the evolution of this  
24 rule and how we would implement any permits  
25 out there that are going to get caught by

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1 this.  
2 One of the things that keeps being  
3 mentioned here is -- and maybe this is a  
4 bigger issue out there than we had thought,  
5 maybe there are a lot of folks out there  
6 who haven't been reporting all of their  
7 emissions, which we believe has been  
8 required by our rules, so this would be an  
9 opportunity for us to take a look at that,  
10 as well.  
11 Nobody says anything at all about  
12 increase fees. Maybe. What about increase

13 impact on the public? And that should be  
14 something that we really need to take into  
15 consideration here. But we will make a  
16 more in-depth presentation on the history  
17 of this and how we would handle any of the  
18 unintended consequences, if there are any,  
19 as we move forward.

20 But let me reiterate we are -- we  
21 don't believe that we are requiring  
22 anything here that we haven't always  
23 required and that the -- we're going to  
24 continue to require that the back half be  
25 included in the analysis.

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1 MR. LYNCH: I wonder, Eddie, if  
2 you could clarify -- I've heard from a  
3 couple of the commenters that if this is  
4 implemented, it would make our rules more  
5 stringent than the Federal Rules. Which is  
6 a big deal. Is that how you interpret  
7 this?

8 MR. TERRILL: We don't believe  
9 that -- again, we don't believe that this  
10 is a new requirement, we believe this is a  
11 requirement that's been there all along.  
12 And all we're doing is trying to quantify  
13 the emissions that come out of a particular  
14 source. And how you do that is -- there's  
15 a lot of debate right now about how is the  
16 best way to calculate condensables. And  
17 EPA has not done a very good job of giving  
18 the technical background of how this ought  
19 to be done. There's quite a bit of the  
20 chemistry that they apparently don't  
21 understand, that may be impacting the  
22 analysis that's done, that they're trying  
23 to work through and clarify. Because again  
24 it's become a real issue in Regional Haze,  
25 because you look at all the sources that

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1 can impact a Class One Area, and  
2 condensables are definitely a part of that,

3 and so we think we've always required that  
4 and this would have been taken care of  
5 years ago. I don't understand how we could  
6 be more stringent than the Federal if all  
7 we're doing is requiring that there be an  
8 accurate accounting of the particulate  
9 matter emissions from a particular source.  
10 And that's all we're really talking about  
11 here. How you do that is debatable and  
12 will be refined as we go along, but that's  
13 part of what -- we will address the Council  
14 that we're -- we're either not -- we either  
15 disagree that we're more strict or if we  
16 are, we'll address that, but we don't think  
17 we are.

18 MR. LYNCH: If I could just make  
19 one more comment to second what you said  
20 about the public health impact. There's a  
21 large and increasing body of evidence that  
22 small liquid droplets are probably more  
23 harmful than particulates. Big studies  
24 that have been done to look at health  
25 affects from air pollution in big cities

1 tend to point toward acid aerosoles is

2 really being one of the big players.

3 MR. TERRILL: Yeah. And we need

4 to emphasize that we re not talking about

5 an increase of actual emissions from what s

6 already out there. I mean, this is just a

7 clarification of existing sources and

8 existing measurements. So we re not

9 talking about really a real increase in

10 emissions here.

11 MR. BRANECKY: But we re -- I

12 think what we re talking about is we have a

13 standard that we think, maybe based on the

14 front half analysis --

15 MR. TERRILL: The NSPS, right.

16 MR. BRANECKY: But then if you

17 start including both the front and back and

18 keep the same number, isn t that a more

19 stringent standard?

20 MR. TERRILL: But that wouldn t

21 apply to the NSPS standard. Only the front  
22 half applies to the NSPS standard and when  
23 we re looking at front and back --

24 MR. BRANECKY: But the State Rule  
25 is identical to the NSPS number as far as

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1 the emission standard; is that not right?

2 MR. TERRILL: I don t think so.

3 MR. PRICE: Eddie, if I could

4 answer that. No, it isn t. Subchapter 19

5 of the standards in all the indices are --

6 include the back half and always have --

7 and they re also -- that s the reason

8 they re so much more generous than what you

9 generally find in the NSPS.

10 And another point I want to make is

11 that Method 5 that everyone keeps quoting,

12 saying only the back half, there s a little

13 caveat to that. In the footnotes, it says

14 that the state s may require the back half.

15 And that s also part of that method. So I

16 just wanted to clear up those two little  
17 points. Thank you.  
18 MR. TERRILL: And again we re not  
19 looking to increase fees or penalize folks  
20 for something they ve been doing all along.  
21 We want to make this -- clarify this so  
22 everybody understands what the emissions  
23 are and how it s being done, and we ll do  
24 that. We ll work through this with  
25 industry and the affected public.

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1 MS. WORTHEN: One other note, if  
2 we go to add "back half" to some of these  
3 permits, you re going to see emissions of  
4 PM on paper, maybe double, considerably.  
5 What about permitting actions, such as  
6 Federal PSD and some of those? What  
7 protection are the sites going to have when  
8 they go to open their permit and it looks  
9 like they re asking for a significant  
10 increase in those PM limits?

11 MR. TERRILL: Laura, I don't  
12 know. I'd hate to even -- because there's  
13 so many things to look at, in that, that  
14 we'll just have to work through it.

15 MR. KROLL: May I follow up? On  
16 -- I just wanted to add, on PSO's permit  
17 for their northeastern station where the  
18 coal-fired generation unit (inaudible) the  
19 Subchapter 19 limit is very similar to the  
20 requirement under 40 CFR 60.42.1 pounds per  
21 million BTUs per hour. So in that case,  
22 and that's the one I'm most familiar with,  
23 obviously, there is a strong correlation of  
24 the number between the State and Federal  
25 Standard. And as mentioned the federal

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1 standard is based on front half only.

2 So in the case where we have test  
3 data showing double potentially condensable  
4 particulate matter to the filterable, there  
5 could be a tremendous difference in the

6 impact on the facility and the ability to  
7 meet the limit. Thank you.

8 MR. TREEMAN: Do you all have any  
9 idea of who s included in the back half and  
10 who s not in the state?

11 MR. TERRILL: We assume that  
12 everybody is. Whether or not that s the  
13 case or not, you never know because you try  
14 to be as consistent as you can when you re  
15 doing permits but there s always -- you  
16 know, you re going to make mistakes. But  
17 in talking with our folks we believe that  
18 it will include the vast majority of our  
19 permits. We ll just have to take a look  
20 and make for sure.

21 MS. BOTCHLET-SMITH: Are there  
22 any other questions from the Council?

23 MR. BRANECKY: All right. The staff is  
24 recommending this be continued to the next  
25 Council Meeting. Before we get into a

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1 Motion, I d like to talk a little bit about  
2 making motions because, I think, from our  
3 last Council Meeting there was some  
4 discussion on exactly what Motion and what  
5 was meant by a Motion.

6 So I would like to -- when we make a  
7 Motion, be real specific on what we re  
8 moving, so we all understand for the record  
9 what the Motion is that is being made. And  
10 we may even want to repeat the Motion just  
11 to make sure everybody understands.

12 So with that, I guess I ll entertain  
13 a Motion with respect to the Council s --  
14 or the staff s recommendation.

15 MR. TREEMAN: I move that this be  
16 continued until the next Council Meeting.

17 MR. CURTIS: Second.

18 (Reporter asks for clarification)

19 MR. BRANECKY: All right. I have  
20 a Motion that this be continued until the  
21 next Council Meeting. And I have a second.

22 Myrna, would you call roll, please?

23 MS. BRUCE: Mr. Purkaple.

24 MR. PURKAPLE: Yes.

25 MS. BRUCE: Ms. Worthen.

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1 MS. WORTHEN: Yes.

2 MS. BRUCE: Mr. Treeman.

3 MR. TREEMAN: Yes.

4 MS. BRUCE: Mr. Curtis.

5 MR. CURTIS: Yes.

6 MS. BRUCE: Mr. Lynch.

7 MR. LYNCH: Yes.

8 MS. BRUCE: Mr. Branecky.

9 MR. BRANECKY: Yes.

10 MS. BRUCE: Motion passed.

11

12 (End of Proceedings of

13 Agenda Items Number 1-4A)

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4 STATE OF OKLAHOMA    )

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6 COUNTY OF OKLAHOMA   )

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8           I, CHRISTY A. MYERS, Certified

9 Shorthand Reporter in and for the State of

10 Oklahoma, do hereby certify that the above

11 proceedings is the truth, the whole truth,

12 and nothing but the truth; that the

13 foregoing proceedings was taken down in



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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4B  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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1                    PROCEEDINGS

2                    MS. BOTCHLET-SMITH: The next

3 Item on the Agenda is Item 4B; OAC 252:100-

4 2, Incorporation by Reference; OAC 252:100-

5 4, New Source Performance Standards; OAC

6 252:100-40, Control of Emission of Friable

7 Asbestos during Demolition and Renovation

8 Operations; OAC 252:100-41, Control of

9 Emission of Hazardous Air Pollutants and

10 Toxic Air Contaminants; and Appendix Q,

11 Title 40, Code of Federal Regulations,

12 Incorporation by Reference.

13 And Mr. Max Price will give the

14 Staff's presentation.

15 MR. PRICE: Mr. Vice-chairman,

16 Members of the Council, ladies and

17 gentlemen.

18 These proposed amendments are being

19 undertaken to assure that all references to

20 the Code of Federal Regulations in Chapter

21 100 have dates attached to them --

22 effective dates of when I messed that up,

23 I'm sorry.

24 To this end, Subchapter 2,

25 Incorporation by Reference, and a new

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1 Appendix Q, Title 40, Code of Federal

2 Regulations Incorporation by Reference, are

3 being added to Chapter 100.

4 Subchapter 4, New Source Performance

5 Standards, is being revoked as the proposed

6 Subchapter 2 and Appendix Q supplant its

7 requirements.

8 Subchapter 41, Control of Emission  
9 of Hazardous Air Pollutants and Toxic Air  
10 Contaminants, is also being revoked because  
11 its provisions with the exception of  
12 Section 41-16, Asbestos, are being rendered  
13 redundant with the adoption of Appendix Q  
14 and the addition of the new Subchapter 42,  
15 Control of Toxic Air Contaminates.

16 The provisions of 41-16 are  
17 replicated in the new Subchapter 40,  
18 Control of Emissions of Friable Asbestos  
19 During Demolition and Renovation  
20 Operations.

21 Since these revisions are extensive,  
22 Staff recommends that the Council vote to  
23 hold these proposals over until the next  
24 Council Meeting, to allow time for further  
25 public comment. Thank you.

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2 questions from the Council? Any comments  
3 from the public?

4 David, I guess you re ready for a  
5 Motion.

6 MR. BRANECKY: Okay. I ll  
7 entertain a Motion with respect to Staff s  
8 recommendations on these Subchapters.

9 DR. LYNCH: I ll move that we  
10 continue these until the next Council  
11 Meeting.

12 MS. WORTHEN: Second.

13 MR. BRANECKY: All right. I have  
14 a Motion to continue Subchapters 2, 40 --  
15 2, 4, 40, and 41 and Appendix Q, to the  
16 next Council Meeting and I have a second.

17 So, Myrna, would you call roll,  
18 please?

19 MS. BRUCE: Mr. Purkaple.

20 MR. PURKAPLE: Yes.

21 MS. BRUCE: Ms. Worthen.

22 MS. WORTHEN: Yes.

23 MS. BRUCE: Mr. Treeman.

24 MR. TREEMAN: Yes.

25 MS. BRUCE: Mr. Curtis.

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1 MR. CURTIS: Yes.

2 MS. BRUCE: Dr. Lynch.

3 DR. LYNCH: Yes.

4 MS. BRUCE: Mr. Branecky.

5 MR. BRANECKY: Yes.

6 MS. BRUCE: Motion approved.

7

8 (End of Proceedings)

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2           C E R T I F I C A T E

3 STATE OF OKLAHOMA    )

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5 COUNTY OF OKLAHOMA    )

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7           I, CHRISTY A. MYERS, Certified

8 Shorthand Reporter in and for the State of

9 Oklahoma, do hereby certify that the above

10 proceedings is the truth, the whole truth,

11 and nothing but the truth; that the

12 foregoing proceedings was taken down in

13 shorthand and transcribed under my

14 direction; that said proceedings weretaken

15 on the 19th day of July, 2006, at Oklahoma  
16 City, Oklahoma; and that I am neither  
17 attorney for nor relative of any of said  
18 parties, nor otherwise interested in said  
19 action.

20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand and official seal on this, the  
22 10th day of August, 2006.

23

24 CHRISTY A. MYERS, C.S.R.  
Certificate No. 00310

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4C  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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1                   PROCEEDINGS

2                   MS. BOTCHLET-SMITH: The next

3 item on the Agenda, 4C, is OAC 252:100-5,

4 Registration, Emission Inventory and Annual

5 Operating Fees.

6                   And the Staff presentation will be

7 given by Mr. Morris Moffett.

8                   MR. MOFFETT: Good morning. I m

9 Morris Moffett. Mr. Vice-chairman, Members

10 of the Council, ladies and gentlemen.

11                  The Department is proposing a

12 revision to Subchapter 5, Registration,

13 Emission Inventory and Annual Operating

14 Fees. Staff is proposing to amend OAC  
15 252:100-5-2.1(b)(3) concerning the content  
16 of the emission inventory. This change is  
17 in response to requests from our clients  
18 and from Air Quality personnel. The rule  
19 as it stands indicates that the annual  
20 Emission Inventory should include an  
21 explanation for any emission that has  
22 changed from the permitted allowable or  
23 from the previous year by 30 percent or  
24 more. The amended version states that the  
25 Department may require the information to

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1 be provided on request for such  
2 documentation. The authority to request  
3 such information is afforded the Department  
4 in OAC 252:100-5-2.1 and the title of that  
5 section is Documentation .

6 At the April 19, 2006 Council  
7 Meeting, there was an oral comment  
8 suggesting that the due date for the Annual

9 Emission Inventory be set to April 1, each  
10 year, and that the provisions concerning  
11 extension requests and the granting of  
12 extensions by the Department be removed.

13 The current Staff proposal includes the  
14 April 1 annual due date and removes the  
15 language concerning an extension.

16 The EPA is in rulemaking for the Air  
17 Emissions Reporting Requirements rule, or  
18 AERR, which will reduce the 17 month lag  
19 between the emissions reporting year and  
20 the deadline for reporting those emissions  
21 to the NEI, or the Net Emission Inventory.

22 The rule will require reporting emissions  
23 in 12 months rather than in 17, by 2008.

24 By 2011, emissions from point sources would  
25 be due to the EPA in only six months,

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1 instead of the current 17. Discussions  
2 with Staff indicate that a significant  
3 number of sources who reported at the end

4 of the extension deadline would impact our  
5 ability to comply with our NEI submittals.

6 We received comments from the Fort  
7 James Operating Company. An email was  
8 received June 26, 2006 from Stephen Landers  
9 from their Muskogee facility. Those  
10 comments and staff responses will be given  
11 to the Council and available at the desk.  
12 The comments are available, along with the  
13 proposed rule at  
14 [http://www.deq.state.ok.us/AQDnew/council\\_m  
15 tgs/jul06/jul06rules.htm](http://www.deq.state.ok.us/AQDnew/council_m<br/>15 tgs/jul06/jul06rules.htm).

16 Staff asks that the Council vote to  
17 approve this proposal and send it to the  
18 Environmental Quality Board with the  
19 recommendation that it be adopted as a  
20 permanent rule.

21 MS. BOTCHLET-SMITH: Do we have  
22 any questions from the Council for  
23 Mr. Moffett?

24 MR. PURKAPLE: Question. I think  
25 one of the public comments concern the form

1 in which the request would come for  
2 explanation, whether it would be written or  
3 exactly how that would come. And I think  
4 the response was that the Staff would  
5 discuss it. Did you all decide how that --  
6 in what form the request for explanation  
7 would come?

8 MR. MOFFETT: I don't think a  
9 final decision has been made on that.

10 MR. TREEMAN: I apologize for my  
11 -- the way the Motion was done last time at  
12 the meeting. I think I'm the cause of  
13 that. But I do know that the extensions in  
14 the past have just been pretty much a  
15 given. If you ask for an extension, it was  
16 given to you. And I guess the reason it  
17 was worded the way it was is there may be  
18 situations beyond the regulated entities  
19 control that are very legitimate that they  
20 can't meet the April 1st deadline. And  
21 with that, I guess, that through a lot of

22 scrutiny from the Agency and whatnot, that  
23 certain provisions might be made on a case-  
24 by-case basis to give those extensions -- I  
25 mean extend it just a little bit. That was

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1 part of the reason that I worded that the  
2 way I did.

3 MR. MOFFETT: That s certainly  
4 how we would respond to extenuating  
5 circumstances. Matt, an (inaudible)  
6 provisions. In extenuating circumstances  
7 they re asking for a possibility of an  
8 extension or some method to protect  
9 themselves.

10 MR. BRANECKY: Well, I think  
11 we ve -- we re -- it was my understanding  
12 from the last Council Meeting that the  
13 Council asked that that extension be placed  
14 back into the rule. And I guess it s --  
15 initially it was Staff s decision not to  
16 agree or not to re-propose that or bring

17 that to the rule. I think they may have  
18 changed their --

19 MR. TERRILL: Well, actually, it  
20 was my decision not to do that because I  
21 felt like we would be arguing against  
22 ourselves if we really didn't think that  
23 should be in there. My concern here is  
24 that in the past we've always granted a 30  
25 day extension without asking any questions

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1 and then there's generally another 30 day  
2 extension that's wanted and we generally  
3 always grant that. And we continue to do  
4 this and it creates a real problem for us  
5 because our time frames for submitting  
6 these to EPA is being compressed  
7 drastically over the next few years. We're  
8 also trying to get our electronic submittal  
9 system to the point where we can do  
10 turnarounds of these things within just a  
11 few months with the idea that we hopefully

12 can bill real time as opposed to having a  
13 two year lag.

14       So my concern about putting an  
15 automatic extension in there or a  
16 possibility with a time frame in there is  
17 that the expectation is, that it will be  
18 granted automatically and for every one  
19 good reason there is for doing it, we ll  
20 have ten that they didn t get to it because  
21 they had vacation or they just didn t think  
22 about it. And our deadlines don t stop.

23       But on the other hand, I do  
24 understand that there is a need for good  
25 cause to have an occasional extension,

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1 which we re not opposed to doing. I just  
2 want to make it clear that this is not  
3 something that s going to be granted as  
4 just a matter of right.

5       I mean, we re moving it to April 1st  
6 and there needs to be a good cause of

7 reason if we re going to extend that date.

8 MR. BRANECKY: Do the majority of  
9 the facilities submit by the deadline or do  
10 we have a lot that ask for extensions?

11 MR. TERRILL: A lot do submit by  
12 the deadline. The vast majority of them  
13 do.

14 MR. BRANECKY: So we just have a  
15 few that request for extentions.

16 MR. MOFFETT: If I could say  
17 something about that. The ones that  
18 generally need the deadline, are companies  
19 with multiple facilities. And I mean over  
20 100, 200. They used to approach 300 until  
21 we sort of relaxed the -- until we ve gone  
22 to the forty ton.

23 Therefore, if we get that two, or  
24 three, or four hundred facilities in from  
25 one or two or three companies that have put

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1 it all off, those all come in at the

2 deadline. It s probably a minimal number  
3 of companies but it s the ones that need it  
4 are the ones that have many, many  
5 facilities that then have to be QA d  
6 (phonetic spelling) before we can send them  
7 off.

8 MR. BRANECKY: I think by  
9 extending the deadline from March to April  
10 that will help a lot of that. But then,  
11 again, there is -- there are some  
12 extenuating circumstances from time-to-time  
13 that may need an extension beyond April 1st  
14 but I think the majority of the facilities  
15 will attempt to meet that April 1st  
16 deadline.

17 MR. TERRILL: I just don t want  
18 to have -- I really don t want to have  
19 language in there, though, that s going to  
20 indicate to folks that this is something  
21 that they can expect to have happen because  
22 it is going to be --

23 MR. BRANECKY: I agree.

24 MR. TERRILL: -- That s what I

25 want to avoid.

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1 MR. BRANECKY: It s not an  
2 automatic extension. Do you have some  
3 language you want to propose?

4 MR. TERRILL: Yeah. What I m  
5 going to propose that we add, and this  
6 would be to 252:100-5-2.1.1, General  
7 Requirements; The inventory shall cover  
8 operations during a calendar year and shall  
9 be submitted prior to April 1st of the  
10 following year . Upon demonstration of  
11 good -- this is the additional language,  
12 Upon demonstration of good cause a  
13 director may grant an extension for  
14 submittal later than April 1st . And not  
15 put a time frame in there, just say upon  
16 demonstration of good cause I ll grant an  
17 extension past April 1st and we ll  
18 negotiate with the facility what they need  
19 based on their circumstances. That way

20 there s not -- it doesn t look like there s  
21 an automatic 30 days that s going to be  
22 granted.

23 MR. TREEMAN: I totally agree  
24 with that. That wasn t the intent. I  
25 don t anybody should be guaranteed beyond

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1 April 1st because that should be more than  
2 time to get the job done. But I just do  
3 feel that there are times that whether it  
4 be a facility with 400 people or the small  
5 facility that only has one guy that knows  
6 what s going on there and he has a heart  
7 attack and he just can t get it done. I  
8 mean there are situations where that I  
9 think there s legitimacy for an extension.  
10 Thank you.

11 MR. PAQUE: Speaking of our  
12 Staff, you might want to answer  
13 Mr. Purkape s question, do we want to add  
14 the word written, a written demonstration?

15 I think that our Staff would probably  
16 prefer something in writing rather than  
17 just a phone call when you re going to ask  
18 for an extension.

19 UNIDENTIFIED MALE: Oh, a written  
20 request for extension?

21 MR. PURKAPLE: Coming back to  
22 that, I think as I recall the public  
23 comment was one if you had inspectors on  
24 site and they wanted to ask for a reason  
25 why you re above 30 percent, it would be

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1 difficult maybe to sort through all that  
2 information to do it.

3 MR. PAQUE: You re referring to  
4 the 30 percent, I thought you were  
5 referring to the extension for emissions  
6 and (inaudible).

7 MR. PURKAPLE: Well, I guess I  
8 could have been.

9 MR. PAQUE: I m sorry.

10 MR. PURKAPLE: No, I was actually  
11 referring to the public comment on the  
12 explanation for the 30 percent increase.  
13 Would that come in written form or I think,  
14 again the context of the comment was that  
15 if you had inspectors there and they wanted  
16 to know, sometimes it s difficult to come  
17 up with that right on the spot.

18 MR. PAQUE: Yeah. I imagine  
19 (inaudible) ask for a little more informal  
20 setting that request probably wouldn t be  
21 made onsite, it would be in the form of an  
22 RFI or something like that.

23 MR. TERRILL: Yeah, it would be.  
24 I don t know that we ve ever -- if we have  
25 it s generally because the person making

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1 the request hasn t done enough inspections  
2 to know that that s something you ask in a  
3 written RFI because there s no way that you  
4 could supply that in the field setting.

5 That s something we would ask for as an  
6 additional submittal.

7 MR. PURKAPLE: In coming back to  
8 your comment now you re talking about a  
9 written request for the extension beyond --

10 MR. PAQUE: Right. That s what I  
11 thought you were going to ask about.

12 MR. PURKAPLE: I think that s  
13 reasonable.

14 MR. PAQUE: Yeah.

15 MS. WORTHEN: So, Eddie, maybe  
16 Upon written demonstration of good cause ?

17 MR. TERRILL: Let me repropose my  
18 language.

19 MR. BRANECKY: Okay.

20 MR. TERRILL: What it would say  
21 now would be, "The inventory shall cover  
22 operations during a calendar year and shall  
23 be submitted prior to April 1st of the  
24 following year." "Upon a written  
25 demonstration of good cause the Director

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1 may grant an extension for submittal later  
2 -- for submittal beyond the April 1st  
3 deadline."

4 MR. BRANECKY: Is that acceptable  
5 to Staff? That language? Council?

6 MR. TREEMAN: I want to go back  
7 one little step here and this goes back to  
8 the 30 percent and not the deadline.

9 MR. BRANECKY: Okay.

10 MR. TREEMAN: And I may be  
11 totally wrong but on the emissions  
12 inventory questionnaire there s this  
13 something, if you exceed or go over so much  
14 that you have to have a written reason why  
15 or give an explanation. Was that one based  
16 on the same 30 percent, Morris?

17 MR. MOFFETT: That s the same  
18 deal.

19 MR. TREEMAN: So will it still be  
20 there or will it be removed from the  
21 emissions inventory questionnaire?

22 MR. MOFFETT: I think that s what

23 the purpose of this was, was to remove it.

24 MR. TREEMAN: Okay.

25 MR. CURTIS: Yes, Morris, I have

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1 a question. It s probably my own confusion

2 but when we talk about 30 percent, is that

3 per pollutant or is it total emissions?

4 MR. MOFFETT: No, sir, that s any

5 single pollutant that goes over.

6 MR. CURTIS: Is that clearly

7 represented in this?

8 MR. BRANECKY: I think it needs

9 to be more specific.

10 MR. MOFFETT: I m sorry?

11 MR. BRANECKY: When I read it now

12 it looks like it could be the total. So I

13 think we need to be more specific.

14 MR. CURTIS: I think so because

15 there s a big difference between per

16 pollutant versus total.

17 MR. BRANECKY: The total emission

18 for the facility.

19 MR. MOFFETT: Okay.

20 MR. BRANECKY: Let s -- let me --

21 before we get too confused, let s deal with

22 one issue. We ve got two issues here in

23 Subchapter 5, the extension and then the 30

24 percent. Let s see if we can resolve the

25 30 day and then we ll go on and discuss the

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1 30 percent issue.

2 So, let s go back to the April 1st

3 deadline issue and make sure we have an

4 agreement on that, or any more discussion

5 on that, and then we ll go down to the 30

6 percent.

7 So what we have so far is a

8 suggestion for language change. And it

9 says, "Upon demonstration of good cause the

10 Director may grant an extension for

11 submittal beyond the April 1st deadline."

12 That s additional language to what is in

13 the Council packet.

14 UNIDENTIFIED FEMALE: Written --

15 MR. BRANECKY: Oh, "Upon a written

16 demonstration of good cause." So do we

17 have any more discussion on that from the

18 Council?

19 MS. BOTCHLET-SMITH: Just to

20 clarify this, are you wanting a Motion --

21 MR. BRANECKY: No. I just want

22 --

23 MS. BOTCHLET-SMITH: -- for that

24 hearing?

25 MR. BRANECKY: It seems like

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1 we re jumping between the two issues. I m

2 getting -- I want to make sure we get one

3 resolved and then we ll deal with the

4 other, one at a time.

5 MS. BOTCHLET-SMITH: Okay. So

6 now we need to move on with questions about

7 the 30 percent from the Council.

8 MR. BRANECKY: Any discussion  
9 from the public on the first issue, the  
10 April 1st deadline? Okay.

11 MS. BOTCHLET-SMITH: No comments.  
12 So now you can move on to the 30 percent.

13 MR. BRANECKY: Then we ll come back -- once  
14 we get that one worked out we ll come back  
15 and ask for --

16 MS. BOTCHLET-SMITH: Ask for a  
17 Motion.

18 MR. BRANECKY: All right.  
19 Mr. Curtis comments with respect to the 30  
20 percent was that that s 30 percent per  
21 pollutant?

22 MR. MOFFETT: That s correct.  
23 That s of any individual pollutant.

24 MR. BRANECKY: We need to insert  
25 some language to clarify that.

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1 MS. WORTHEN: Isn t that also 30  
2 percent per unit per pollutant or 30

3 percent site-wide per pollutant? Because  
4 depending on which company you re --  
5 emission inventory you re doing each  
6 company has looked at that differently when  
7 I ve done them in the past.

8 MR. PRICE: Can I answer that?

9 MS. BOTCHLET-SMITH: Would you  
10 please.

11 Staff, please remember to state your  
12 name.

13 MR. PRICE: My name is Max Price.

14 I m sorry. The emissions that are gathered  
15 in the 30 percent are actual emissions.

16 And one of the changes we ve made to the  
17 definitions of actual emissions is to make  
18 sure that everyone understands that when we  
19 say actual emissions we re talking about  
20 each pollutant. That s one of the changes  
21 we ve made in the definition section. So  
22 the extra language would probably be  
23 redundant.

24 MR. PURKAPLE: But it s each  
25 pollutant per emitting source; right?

1 MR. BRANECKY: Not per facility.

2 That s the question?

3 MR. PRICE: The inventory is

4 (inaudible), if I m not -- and tell me if

5 I m wrong, the inventory, when we re

6 talking about the 30 percent is per

7 facility, not unit.

8 MS. WORTHEN: Okay. Then can we

9 clarify that this 30 percent is for site-

10 wide emissions, not so that you have to go

11 back and look at every single unit at a

12 site for the 30 percent difference?

13 Because that is what has -- a lot of

14 facilities have ended up going back and

15 looking at and at a large facility, that s

16 a big exercise.

17 MR. BRANECKY: So do you have

18 some language you could suggest?

19 MS. WORTHEN: Maybe the first

20 sentence, "If the actual emissions vary

21 from the allowable or more from the  
22 previous years actual by more than 30  
23 percent site-wide."

24 MR. BRANECKY: Facility-wide?

25 MS. WORTHEN: Facility-wide.

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1 MR. BRANECKY: Per facility?

2 MS. WORTHEN: I don t want to say  
3 per facility because then some people will  
4 look at each facility as each separate --  
5 each FCC unit in the refinery, which might  
6 have two different ones. That s why I m  
7 saying we want to do the entire facility.

8 MR. TERRILL: I m not so sure we  
9 want to do this sitting here because we re  
10 going to end up doing something that we had  
11 not intended to do. I d rather -- I d  
12 prefer to carry this over if we re going to  
13 have to fix this.

14 MR. PAQUE: If we re going to  
15 make this change here, I think we are going

16 to have to make it to some other parts of  
17 this rule, too. I mean if that same  
18 confusion exists on how -- what you report  
19 on your emissions inventory.

20 MR. BRANECKY: All right. Since  
21 we don't have to do this today, it sounds  
22 like to me it would be prudent if we step  
23 back a little bit and continue this to the  
24 next meeting, but that's up to the --  
25 choice of the Council.

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1 MS. BOTCHLET-SMITH: Does Staff  
2 want to change their recommendation for  
3 what to do with this rule?

4 MR. MOFFETT: Carry it over to  
5 the next Council Meeting. Staff recommends  
6 that this be carried over to the next  
7 Council Meeting.

8 MR. BRANECKY: All right. I  
9 guess I'll entertain a Motion. But do we  
10 want to be specific in our Motion to what

11 we want the Staff to look at?

12 MR. TERRILL: I d recommend not

13 doing that. I think we can get that from

14 the record. I think we re all in agreement

15 about what we want to do here. We might

16 lock ourselves i,n if we re not careful.

17 You can always change it at the Council

18 Meeting.

19 MR. BRANECKY: We will. All

20 right. Are we ready?

21 MS. BOTCHLET-SMITH: We re ready

22 for a Motion now.

23 MR. BRANECKY: Okay. I guess I

24 will then entertain a Motion.

25 MR. PURKAPLE: Given your

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1 instructions, I hesitate to offer one, but

2 I move that we hold this over until the

3 next Council Meeting.

4 MR. BRANECKY: Okay.

5 MR. PURKAPLE: Does that meet

6 with your expectations?

7 MR. BRANECKY: Well, I m just  
8 trying to make sure we all understand what  
9 we re supposed to be doing.

10 MR. PURKAPLE: Okay.

11 MR. CURTIS: Second.

12 MR. BRANECKY: All right. I have  
13 a Motion and a second that we continue this  
14 Subchapter 5 to the next Council Meeting.

15 Myrna.

16 MS. BRUCE: Mr. Purkaple.

17 MR. PURKAPLE: Yes.

18 MS. BRUCE: Ms. Worthen.

19 MS. WORTHEN: Yes.

20 MS. BRUCE: Mr. Treeman.

21 MR. TREEMAN: Yes.

22 MS. BRUCE: Mr. Curtis.

23 MR. CURTIS: Yes.

24 MS. BRUCE: Dr. Lynch.

25 DR. LYNCH: Yes.

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1 MS. BRUCE: Mr. Branecky.

2 MR. BRANECKY: Yes.

3 MS. BRUCE: Motion approved.

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5 (End of Proceedings)

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3 STATE OF OKLAHOMA    )

4                            )    ss:

5 COUNTY OF OKLAHOMA   )

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7        I, CHRISTY A. MYERS, Certified

8 Shorthand Reporter in and for the State of

9 Oklahoma, do hereby certify that the above

10 proceedings is the truth, the whole truth,

11 and nothing but the truth; that the

12 foregoing proceedings was taken down in

13 shorthand and transcribed under my

14 direction; that said proceedings were taken

15 on the 19th day of July, 2006, at Oklahoma

16 City, Oklahoma; and that I am neither

17 attorney for nor relative of any of said

18 parties, nor otherwise interested in said

19 action.

20 IN WITNESS WHEREOF, I have hereunto

21 set my hand and official seal on this, the

22 15th day of August, 2006.

23

24

25 CHRISTY A. MYERS, C.S.R.  
Certificate No. 00310

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4D  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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1 MEMBERS OF THE COUNCIL

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16 DR. JOYCE SHEEDY - AQD

- 17 MATT PAQUE - LEGAL
- 18 BEVERLY BOTCHLET-SMITH - AQD
- 19 MAX PRICE - AQD
- 20 HEATHER BRAGG - AQD
- 21 MORRIS MOFFETT - AQD
- 22
- 23
- 24
- 25

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- 1 PROCEEDINGS
- 2 MS. BOTCHLET-SMITH: The next
- 3 item on the Agenda is 4D. This is OAC
- 4 252:100-5, Registration, Emission
- 5 Inventory, and Annual Operating Fees; OAC
- 6 252:100-7, Permits for Minor Facilities;
- 7 OAC 252:100-9, Excess Emission Reporting
- 8 Requirements; OAC 252:100-23, Control of
- 9 Emissions from Cotton Gins; and Appendix P,
- 10 Regulated Air Pollutants.
- 11 Mr. Max Price of the staff, will

12 give a presentation.

13 MR. PRICE: Mr. Vice-chairman, Members of

14 the Council, ladies and gentlemen.

15 These proposals were first presented

16 to the Air Quality Council at the April

17 19th Meeting. At that time staff

18 recommended that they be held over until

19 this meeting, to allow time for more public

20 comment. In response to those comments,

21 the following changes have been made since

22 the original proposals:

23 One. Appendix P has been modified

24 by merging the PM-10 and the PM-2.5 records

25 into the PM record with an appropriate

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1 modification to its description field. In

2 addition, the NOTES at the bottom of

3 Appendix P have been reworded to replace

4 the term, delegation by EPA with the

5 term, authority , and note (3) has been

6 added.

7 Two. The definition of RAP,  
8 Regulated Air Pollutant, in Section 5-1.1,  
9 7-1.1, and 9-2 has been slightly reworded  
10 to replace the term, delegation by EPA  
11 with the term, "authority".

12 Three. The definition of Actual  
13 emissions has only been slightly amended  
14 and now retains the term, calendar year .

15 I might note that this is the  
16 definition prior -- that applied to the  
17 previous presentation.

18 Four. The term, "for TSP" has been  
19 deleted from 23-1.

20 Also, I d like to make a small  
21 change to the definition of gross  
22 particulate matter -- or suggest that the  
23 Council make this change. I would like to  
24 replace the term "a nominal" with the term  
25 "and". It was pointed out yesterday that

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1 the term nominal should only be applied to

2 discreet data and not to a range of data  
3 and if you read the definition, of course,  
4 we re talking about a range of data here.  
5 The term was misused there. So I want to  
6 delete that if that s possible.

7 Staff ask that the Council vote to  
8 send these provisions to the DEQ Board with  
9 the recommendation that they be adopted as  
10 permanent rules. Thank you.

11 MS. BOTCHLET-SMITH: Do we have  
12 questions from the Council of Mr. Price?

13 MR. PURKAPLE: Max, take a look  
14 at Appendix P and in the bottom quarter  
15 where it says particulate matter of PM --

16 MR. PRICE: Uh-huh.

17 MR. PURKAPLE: -- it says it s  
18 defined in OAC 252:100 and then that s it.  
19 Is there supposed to be more added to that?

20 MR. PRICE: No, sir. The  
21 definition for PM -- actually, I was  
22 thinking about the context, and the way  
23 it s used. In some Subchapters we use PM-  
24 10, some chapters we use PM-2.5, sometimes

25 we use different -- in different context.

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1 It s defined in Subchapter 1.

2 MR. PURKAPLE: Okay, so that s

3 intended to refer to the whole body of the

4 recommendation.

5 MR. PRICE: Right, right. And it

6 depends on -- in any context how you re

7 using PM. PM is rather a squirrelly group

8 right now, obviously.

9 MR. PURKAPLE: Okay. And the

10 same, then, applies to the VOCs?

11 MR. PRICE: Yes, sir.

12 MR. PURKAPLE: Okay. Thank you.

13 MR. PRICE: You re welcome.

14 MS. BOTCHLET-SMITH: Do we have

15 any questions from the public? Hearing

16 none, one more chance for the Council.

17 MR. TREEMAN: Okay. With this

18 change of adding gross particulate matter

19 and doing away with TSP, is there going to

20 be any substantive change to industry?

21 MR. PRICE: I suppose you re

22 talking about Subchapter 23; is that

23 correct?

24 MR. TREEMAN: That s one, yes.

25 MR. PRICE: Okay. Well, TSP was

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1 never an emission, the term was actually  
2 misused in that particular Subchapter, what  
3 it should have been is PM. You can t test  
4 TSP at a stack, it s impossible. What it  
5 was is people were, back in the old days,  
6 they got confused. They got PM and TSP  
7 confused in their minds and they ended up  
8 in the rules a few times. And in that one  
9 it is really kind of sad because we  
10 actually have control efficiencies on the  
11 control standards in 23, on a substance  
12 that you can t test for.

13 So obviously it s -- it would -- it

14 was -- rendered a whole section

15 (inaudible). And that s why we just pulled  
16 it. It s obvious it s PM, we don t need to  
17 mention it in PM control efficiencies.

18 MS. BOTCHLET-SMITH: Doesn t seem  
19 to be any other questions from the Council.  
20 Do you want to entertain a Motion?

21 MR. BRANECKY: All right. I will  
22 entertain a Motion from the Council on  
23 action on these rules that DEQ has given us  
24 this morning.

25 MS. BOTCHLET-SMITH: Staff --

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1 Max, would you like to restate the staff s  
2 recommendation on this rule?

3 MR. BRANECKY: And there was one  
4 change that the staff recommended.

5 MR. PRICE: Okay. Staff will  
6 recommend that the Council send this --  
7 with this one minor change to remove the  
8 term "a nominal" with the term "and" under  
9 the definition of GPM and send these

10 provisions to the Air Quality Board as a  
11 recommendation as a permanent rule.

12 MR. BRANECKY: All right. Thank  
13 you, Max. It looks like we do have one  
14 public comment.

15 MS. BOTCHLET-SMITH: Julia  
16 Bevers.

17 MS. BEVERS: Julia Bevers, OGE  
18 Energy. I just -- I'm curious --

19 MS. BOTCHLET-SMITH: Microphone,  
20 please.

21 MS. BEVERS: Okay. I was just  
22 curious, gross particulate matter is also  
23 defined in Subchapter 1, and the word  
24 "nominal" is not removed, so will that --  
25 does it need to be in both places?

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1 MR. PRICE: Yes, ma'am. That was  
2 in there originally but it's going to be  
3 removed.

4 MR. BRANECKY: In Subchapter 1 it

5 will be removed when it comes back --

6 MR. PRICE: When you get to the

7 final rulemaking.

8 MR. BRANECKY: Okay. Is that it?

9 MS. BOTCHLET-SMITH: Okay. We

10 have a staff recommendation. Do we have

11 any other comments from the public or

12 questions from the Council? David.

13 MR. BRANECKY: All right. We

14 have before us, the staff has recommended

15 that we adopt these rules as permanent as

16 presented to us in our Council packet with

17 the one change in the definition to gross

18 particulate matter removing the word

19 "nominal" and striking the -- changing the

20 "and" to an "a" -- or an "a" to an "and".

21 So with that, I'll entertain a

22 Motion.

23 MR. CURTIS: I move that we adopt

24 the staff's recommendation and make the

25 stated changes.

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1 MR. TREEMAN: Second.

2 MR. BRANECKY: Okay. We ve got a

3 Motion and a second that we adopt

4 Subchapters 5, 7, 9, and 23, and Appendix P

5 with the change to Subchapter 5 of striking

6 the word "nominal" and changing the word

7 "a" before that to "and".

8 Myrna, call roll, please.

9 MS. BRUCE: Mr. Purkaple.

10 MR. PURKAPLE: Yes.

11 MS. BRUCE: Ms. Worthen.

12 MS. WORTHEN: Yes.

13 MS. BRUCE: Mr. Treeman.

14 MR. TREEMAN: Yes.

15 MS. BRUCE: Mr. Curtis.

16 MR. CURTIS: Yes.

17 MS. BRUCE: Dr. Lynch.

18 DR. LYNCH: Yes.

19 MS. BRUCE: Mr. Branecky.

20 MR. BRANECKY: Yes.

21 MS. BRUCE: Motion approved.

22

23 (End of Proceedings)

24

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2 CERTIFICATE

3 STATE OF OKLAHOMA )

4 ) ss:

5 COUNTY OF OKLAHOMA )

6 I, CHRISTY A. MYERS, Certified

7 Shorthand Reporter in and for the State of

8 Oklahoma, do hereby certify that the above

9 proceedings is the truth, the whole truth,

10 and nothing but the truth; that the

11 foregoing proceedings was taken down in

12 shorthand and transcribed under my

13 direction; that said proceedings weretaken

14 on the 19th day of July, 2006, at Oklahoma

15 City, Oklahoma; and that I am neither

16 attorney for nor relative of any of said

17 parties, nor otherwise interested in said

18 action.

19 IN WITNESS WHEREOF, I have hereunto

20 set my hand and official seal on this, the

21 10th day of August, 2006.

22

23 CHRISTY A. MYERS, C.S.R.

Certificate No. 00310

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DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

OF THE AIR QUALITY COUNCIL

REGULAR MEETING

ITEM NUMBER 4E

HELD ON JULY 19, 2006, AT 9:00 A.M.

IN OKLAHOMA CITY, OKLAHOMA

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- 1 PROCEEDINGS
- 2 MS. BOTCHLET-SMITH: The next
- 3 item on the Agenda is number 4E. This is
- 4 OAC 252:100-17, Incinerators; and Part 11,
- 5 Other Solid Waste Incineration Units.
- 6 Ms. Heather Bragg will give the
- 7 staff presentation.
- 8 MS. BRAGG: Madame Chair, Members
- 9 of the Council, ladies and gentlemen. I
- 10 guess the Madame Chair is not here today.
- 11 I m Heather Bragg, an environmental

12 specialist in the Air Quality rules and  
13 planning section. The Department is  
14 proposing amendments to OAC 252:100-17,  
15 Incinerators. The amendments would add a  
16 new Part 11, Other Solid Waste  
17 Incinerators, also known as OSWI, to  
18 Subchapter 17, to establish emissions and  
19 other enforceable standards for new and  
20 existing OSWI. This is the second time  
21 this rule has been to Council, having also  
22 gone to Council during the April 19th  
23 Meeting.  
24 On December 16, 2005, the U.S.  
25 Environmental Protection Agency promulgated

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1 New Source Performance Standards and  
2 emission Guidelines for other solid waste  
3 incinerators as 40 CFR 60, Subparts EEEE  
4 and FFFF, respectively. These rules went  
5 into affect on February 14, 2006.  
6 And OSWI is defined in 40 CFR 60,

7 Subpart EEEE as either a very small  
8 municipal waste incineration unit or an  
9 institutional waste incineration unit,  
10 where a very small municipal waste  
11 combustion unit is any unit that has the  
12 capacity to burn less than 35 tons per day  
13 of municipal solid waste or refuse-derived  
14 fuel. OSWI units include but are not  
15 limited to the municipal or institutional  
16 solid waste feed system, grate system, flue  
17 gas system, waste heat recovery equipment,  
18 and bottom ash system. The OSWI unit does  
19 NOT include air pollution control equipment  
20 or the stack.

21 The NSPS establish emission and  
22 other enforceable standards for OSWI  
23 constructed, modified, or reconstructed  
24 after June 16, 2006. These units must  
25 comply with 40 CFR 60, Subpart EEEE, which

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2 90. The Emission Guidelines apply to OSWI  
3 constructed on or before December 9, 2004  
4 and appear in the remainder of the new  
5 252:100-17, Part 11. The proposed Emission  
6 Part 11 are written following 40 CFR 60,  
7 Subpart FFFF, and are neither more nor less  
8 stringent than the federal rule.

9 All OSWI are subject to either the  
10 NSPS or the Guidelines, unless they are  
11 listed under the specific exemptions in the  
12 regulations. There are 16 types of devices  
13 that are exempted under these standards.  
14 These exemptions can be found in 252:100-  
15 17-93.

16 252:100-17, Part 11, has been  
17 written in preparation of the state 111(d)  
18 Plan, which Staff has begun work on. It is  
19 necessary to promulgate new rules to  
20 establish the enforcement mechanism  
21 required in the State 111(d) Plan. The  
22 guidelines in Part 11 and 40 CFR 60,  
23 Subpart FFFF, define the minimum  
24 requirements that a state pollution control

25 agency must include in its State 111(d)

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1 Plan. If Oklahoma does not implement the  
2 guidelines in the State Plan, EPA will  
3 implement them as a Federal Plan.

4 Notice of the proposed rule change  
5 was published in the Oklahoma Register on  
6 June 15, 2006 and requested comments from  
7 the members of the public. Although a set  
8 of comments were addressed for the April  
9 19th meeting, no comments have been  
10 received for this meeting.

11 Staff has had difficulty in trying  
12 to locate OSWI facilities from the  
13 emissions inventory, but has a lengthy list  
14 of potential OSWIs. The types of  
15 identified facilities that may be affected  
16 include small incinerators at military  
17 facilities, medical facilities, and  
18 educational institutions. Because no  
19 further work needs to be done on Subchapter

20 17 Part 11 and as much information as  
21 possible has already been taken from the  
22 emissions inventory, staff recommends that  
23 the Council recommend this rule to the  
24 Board for adoption so that the Department  
25 can be prepared for newly found OSWI units

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1 and pursue the task of finding existing  
2 OSWI units on to the Customer Services  
3 Division -- pursue the task of finding  
4 existing units.

5 (Reporter ask for clarification)

6 MS. BRAGG: Thank you.

7 MS. BOTCHLET-SMITH: Do we have  
8 questions from the Council?

9 MR. PURKAPLE: Couple of a little  
10 maybe picky things, I guess. On Page 2, at  
11 the top, 252:100-17-92, terminology related  
12 to 40 CFR.

13 MS. BRAGG: Under the definitions  
14 17-91, is that what you re looking at?

15 MR. PURKAPLE: 17-92. The title  
16 is terminology related to 40 CFR, There  
17 should be something else there; right?

18 MS. BRAGG: Yep.

19 MR. PURKAPLE: And right under  
20 that, for the purposes of interfacing with  
21 40 CFR (inaudible). And --

22 MS. BRAGG: That was a good  
23 catch.

24 MR. PURKAPLE: Okay. And then  
25 over on Page 5, at the top, Number 16,

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1 Incinerators Used for National Security, at  
2 the end of that sentence, OAC 252:100-17-93  
3 that should be, I think, (16)(a) or (b).

4 MS. BRAGG: You re looking at --

5 MR. PURKAPLE: It s on Page 5 at  
6 the top. Number 16, Incinerators used for  
7 National Security. The sentence says, the  
8 incineration unit is excluded if it meets  
9 the requirement specified in either -- and

10 it has OAC 252:100-17-93, should that not  
11 be 93 and then (16)(a)?

12 MS. BRAGG: You re correct. Yes.  
13 Another excellent catch by you.

14 MR. PURKAPLE: Thank you.

15 MR. CURTIS: Ms. Bragg, I guess  
16 in the Council s handout what was stated  
17 was that the staff was going to recommend  
18 continuing the hearing. And what I thought  
19 I heard you say is, recommend approving  
20 your recommendations. So what is the  
21 difference?

22 MS. BRAGG: That s correct.  
23 Originally we had intended to continue this  
24 rule until the next meeting but we ve  
25 changed our minds since then.

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1 MR. TERRILL: Actually, we talked  
2 about it in pre-meet earlier in the week  
3 and when we went to -- when we had to  
4 publish the rules, we -- at that time, we

5 felt like there was still some additional  
6 work, looking for these facilities but  
7 we ll be probably at the same place in  
8 three months as we are now and there s no  
9 really new work to be done on the rule. So  
10 we changed our mind and decided to  
11 recommend to try to get this passed and  
12 continue it. Because it really wouldn t  
13 affect us to continue to look for  
14 facilities that might be caught by this  
15 rule.

16 So that s -- it is a little bit  
17 confusing but we just decided that we d try  
18 to pass this thing today.

19 MR. BRANECKY: But however, with  
20 Mr. Purkapple s catch and that first  
21 reference to 40 CFR, do we need to clarify  
22 that before we pass that?

23 MS. BRAGG: If you d like --

24 MR. BRANECKY: We don t have an  
25 answer for that today, do you? What that

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1 should be?

2 MS. BRAGG: Mr. Terrill and  
3 Mr. Paque can correct me if I m wrong, but  
4 that was to refer to the part of the  
5 regulation and the Subpart EEEE that has  
6 those definitions. So it would be very  
7 simple to just go back and look at it and  
8 put in the number afterwards.

9 MR. BRANECKY: Can we do that  
10 today?

11 MS. BOTCHLET-SMITH: David, why  
12 don t we table this and go to the next item  
13 on the Agenda and give Heather and Matt a  
14 chance to verify that that s the correct  
15 thing to insert and then we can bring it  
16 back in a few minutes.

17 MR. BRANECKY: Okay. Is that all  
18 right with you?

19 UNIDENTIFIED MALE: That s fine.

20 MR. BRANECKY: What do I need to  
21 do?

22 MS. BOTCHLET-SMITH: You might

23 need a Motion to table that until later in  
24 the meeting.

25 MR. BRANECKY: Take a vote?

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1 MS. BOTCHLET-SMITH: Yeah.

2 MR. BRANECKY: Okay.

3 Mr. Purkapple.

4 MR. PURKAPLE: I move that we  
5 table this until later in the meeting.

6 MR. BRANECKY: I have a Motion.  
7 Second?

8 MS. WORTHEN: Second.

9 MR. BRANECKY: I have a Motion  
10 and a second to table this until later  
11 today.

12 Myrna.

13 MS. BRUCE: Mr. Purkapple.

14 MR. PURKAPLE: Yes.

15 MS. BRUCE: Ms. Worthen.

16 MS. WORTHEN: Yes.

17 MS. BRUCE: Mr. Treeman.

18 MR. TREEMAN: Yes.  
19 MS. BRUCE: Mr. Curtis.  
20 MR. CURTIS: Yes.  
21 MS. BRUCE: Dr. Lynch.  
22 DR. LYNCH: Yes.  
23 MS. BRUCE: Mr. Branecky.  
24 MR. BRANECKY: Yes.  
25 MS. BRUCE: Motion approved.

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1 (Agenda Item 4E continued until later)

2 (Continuation of Agenda Item Number 4E)

3

4 MR. BRANECKY: Okay. I guess at

5 this point what we'd like to do, if it's

6 okay with Council, is to revisit the OAC

7 252:100-17, Agenda Item E that we tabled

8 earlier and see if we can address that and

9 get that taken care of before we move on.

10 MS. BOTCHLET-SMITH: Okay. As

11 David said, the next item on the Agenda,

12 back tracking, is going to be 4E, OAC

13 252:100-17, Incinerators; Part 11, Other  
14 Solid Waste Incineration. And we'll call  
15 on Ms. Heather Bragg to revisit that for  
16 the Staff.

17 MS. BRAGG: The first -- or  
18 starting with the second change that Mr.  
19 Purkale suggested that in 252:100-17-93-16  
20 in that first sentence under the title,  
21 Incinerators used for National Security ,  
22 we do indeed need to add 16 in there so  
23 that that sentence will then read, The  
24 incineration unit is excluded if it meets  
25 the requirements specified in either OAC

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1 252:100-17-93-16(a) or (b). That rule does  
2 need to be changed. Or that part.

3 Now in response to the other  
4 suggestion that Mr. Purkale made, we feel  
5 that reference is correct. It doesn't  
6 really need to -- it doesn't apply to a  
7 specific part of the CFR, it's just for

8 general clarification purposes and that  
9 terminology is used in other places in our  
10 rules.

11 However, for clarification, we could  
12 add -- change that to where it reads,  
13 "terminology related to 40 CFR 60", and  
14 then follow that change in the sentence  
15 below that, "For purposes of interfacing  
16 with 40 CFR 60, the following terms apply".

17 MR. PURKAPLE: I think that would  
18 be a good addition. As I read rules later  
19 on, the more clarity that there is I think  
20 the better off we all are. So thank you.

21 MS. BRAGG: You re welcome.

22 THE REPORTER: Heather, will you  
23 read that last one again? I m sorry.

24 MR. PAQUE: It should be part  
25 also. Part 60.

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1 MS. BRAGG: Right. Okay. All  
2 right. So the change we are making is in

3 -- under 252:100-17-92, "terminology  
4 related to 40 CFR", we are changing that to  
5 "terminology related to 40 CFR Part 60" and  
6 we are following that change up in the next  
7 sentence where it repeats that same phrase.

8 UNIDENTIFIED FEMALE: Thank you.

9 MS. BOTCHLET-SMITH: Do we have a staff  
10 recommendation at this point?

11 MS. BRAGG: Just so that it s on  
12 record, I would like to say something that  
13 was mentioned to me during the break,  
14 before I go to the recommendation and that  
15 was a question regarding the refuse  
16 (inaudible) fuel. Our rules are just a  
17 mimic of EPA s on 40 CFR 60 EEEE and FFFF.  
18 So we re not adding anything to make it  
19 more stringent. Just so that that s clear,  
20 this is just basically what EPA has  
21 regulated.

22 And staff recommends that this rule  
23 go to the Board with the changes that was  
24 discussed just a moment ago.

25 MR. BRANECKY: For permanent

1 adoption?

2 MS. BRAGG: Yes, for permanent

3 adoption.

4 MR. BRANECKY: Thank you.

5 MS. BOTCHLET-SMITH: Do we have

6 questions from the Council? Are there any

7 questions or comments from the public?

8 Hearing none, if there are no more

9 questions from the Council, David, I guess

10 you can entertain a Motion at this time.

11 MR. BRANECKY: Okay. I will

12 entertain a Motion to act on the staff s

13 recommendation -- staff s two suggested

14 changes and their recommendation for

15 adoption as a permanent rule to be sent to

16 the Board.

17 MR. PURKAPLE: I move we send

18 this on to the Board for permanent adoption

19 with the corrections that have been made to

20 it.

21 MR. CURTIS: Second.  
22 MR. BRANECKY: I have a Motion  
23 for adoption and a second.  
24 Myrna, would you call roll, please?  
25 MS. BRUCE: Mr. Purkaple.

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1 MR. PURKAPLE: Yes.  
2 MS. BRUCE: Ms. Worthen.  
3 MS. WORTHEN: Yes.  
4 MS. BRUCE: Mr. Treeman.  
5 MR. TREEMAN: Yes.  
6 MS. BRUCE: Mr. Curtis.  
7 MR. CURTIS: Yes.  
8 MS. BRUCE: Dr. Lynch.  
9 DR. LYNCH: Yes.  
10 MS. BRUCE: Mr. Branecky.  
11 MR. BRANECKY: Yes.  
12 MS. BRUCE: Motion approved.  
13  
14 (End of Proceedings)  
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3 STATE OF OKLAHOMA    )

4                            )    ss:

5 COUNTY OF OKLAHOMA   )

6        I, CHRISTY A. MYERS, Certified

7 Shorthand Reporter in and for the State of

8 Oklahoma, do hereby certify that the above

9 proceedings is the truth, the whole truth,

10 and nothing but the truth; that the

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4F  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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- 1 PROCEEDINGS
- 2 MS. BOTCHLET-SMITH: We ll go on
- 3 to the next item on the Agenda, Number 4F.
- 4 This is OAC 252:100-44, Control of Mercury
- 5 Emissions from Coal Fired Electric Steam
- 6 Generating Units. And Mr. Morris Moffett
- 7 will give the staff presentation.
- 8 MR. MOFFETT: Good morning. My
- 9 name is Morris Moffett. Mr. Vice-chairman,
- 10 Members of the Council, ladies and
- 11 gentlemen.

12           The Department is proposing a new  
13 OAC 252:100-44, Control of Mercury  
14 Emissions from Coal-fired Electric Steam  
15 Generation Units. On March 15, 2005, EPA  
16 issued the Clean Air Mercury Rule, C-A-M-R,  
17 (CAMR) to permanently cap and reduce  
18 mercury emissions from coal-fired power  
19 plants. In response to the Federal Rule,  
20 and considering comments received from  
21 stakeholders and comments received, the  
22 Department is proposing the Incorporation  
23 by Reference of the Federal Clean Air  
24 Mercury Rule (CAMR). The approach of  
25 Incorporating by Reference, most of the

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1 provisions of the model rule will  
2 facilitate EPA s review of Oklahoma s rule.  
3 The Incorporation by Reference also  
4 simplifies the adoption of the final  
5 changes to incorporated provisions of the  
6 model rule since the publication date

7 indicated on the incorporated rule  
8 provisions can be revised to reference an  
9 updated version of the model rule.

10 I think that simply means that it  
11 makes it easier to update later on.

12 The rule, as posted, proposed  
13 auctioning one percent of the Mercury  
14 emission credits with the proceeds to be  
15 used to offset costs incurred by the  
16 Department for projects related to the  
17 control or analysis of atmospheric mercury  
18 deposition. We have decided not to pursue  
19 the concept of an auction. We are now  
20 considering other means of funding mercury  
21 effects studies. The Department is  
22 requesting comments concerning the most  
23 appropriate methods of allocating,  
24 distributing, setting aside and reserving  
25 the Mercury allocations.

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1 The approach EPA has taken is

2 intended to establish standards of  
3 performance limiting mercury emissions  
4 from new and existing coal-fired power  
5 plants and creates a market based cap-and-  
6 trade program which should reduce emissions  
7 nationwide. According to EPA, the rule  
8 would result in a 50 percent reduction in  
9 mercury emissions from power plants by  
10 2020. EPA said that when fully implemented  
11 after 2020, the rule would reduce mercury  
12 emissions by 69 percent.

13       We received comments from the EPA.  
14 An email dated July 12, 2006 signed by  
15 Jeffrey Robinson of the Air Permits  
16 Section. We also received comments from  
17 the Clean Air Markets Division of the EPA,  
18 forwarded by Jeffrey Robinson on July 12,  
19 2006. These comments and staff responses  
20 will be given to the Council and are  
21 available at the desk. The comments are  
22 available, along with the proposed rule on  
23 our website.

24       Staff asks that the Council vote to

25 continue this hearing to the October

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1 meeting.

2 MS. BOTCHLET-SMITH: Questions  
3 from the Council?

4 MR. PURKAPLE: I have a question.  
5 On page, I guess it would be 3, under 44-7,  
6 it s (2)(A). There is a conversion factor  
7 for BTU s for kilowatt hour, which is 7,900  
8 and then later on down in (2)(C) it s 3,413  
9 BTU s per kilowatt hour. I think it s  
10 7,900 if I m not mistaken. Which should be  
11 the same in both places; right?

12 MR. MOFFETT: I don t know that.

13 MR. PAQUE: I think we -- this is  
14 from the EPA rules. We re going to have to  
15 check on that. (Inaudible).

16 MR. PURKAPLE: Okay. That s one  
17 thing I didn t do is I didn t go back to  
18 the original source.

19 It just seems odd that it s

20 different in two places.

21 MR. MOFFETT: I ll look into

22 that.

23 MR. BRANECKY: Are we talking

24 about two different types of equipment?

25 MR. MOFFETT: One is a combustion

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1 turbine --

2 MR. BRANECKY: The lower one is a

3 combustion turbine, the other one is a --

4 MR. PURKAPLE: A boiler.

5 MR. BRANECKY: I m trying to look.

6 MR. PURKAPLE: I just assumed

7 it s a conversion factor.

8 MR. BRANECKY: Right.

9 MR. PURKAPLE: But I may be

10 wrong.

11 MR. BRANECKY: It s different for

12 different types of equipment, I think, is

13 the reason it s a different number.

14 MR. PURKAPLE: Okay.

15 MR. TERRILL: But we will verify  
16 that.

17 MS. BOTCHLET-SMITH: Do we have  
18 any questions for the Council? I have a  
19 Notice of Oral comment from Mr. Bud Ground  
20 of PSO.

21 MR. GROUND: Thank you, Council.  
22 My name is Bud Ground, I represent Public  
23 Service Company of Oklahoma. And I do have  
24 comments this morning, I haven't actually  
25 decided if I'm going to submit it or not

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1 because part of my comments were --  
2 actually, I will go ahead and just give it  
3 to you so you'll have it on the record.  
4 And I've got one for Mr. Moffett and one  
5 for the recorder as well, is that okay?

6 THE REPORTER: Thank you, Bud.

7 MR. GROUND: But I also had a few  
8 questions and a couple of comments and I  
9 guess, just to start with the very first of

10 it, the purpose, it talks about it actually  
11 applying to a coal fired electric steam  
12 generating units and I haven t found an  
13 actual definition for that but I guess my  
14 understanding of what a coal fired electric  
15 steam generating unit is is different than  
16 what is represented here or what EPA  
17 considers. Because one part that was just  
18 brought out -- there s three different  
19 areas back here where it talks about the --  
20 it s very difficult to find the 44-7, the  
21 allowance allocation, under (A)(2) -- where  
22 that 7,900 BTU per kilowatt hour came up,  
23 the same section, it talks about three  
24 different types of steam generating units  
25 and that to me -- and that to me when you

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1 have a coal fired combustion turbine that  
2 is not a steam generating unit, even if  
3 it s connected to a heat recovery steam  
4 generator. That s just not my

5 understanding of a coal fired steam  
6 generating unit. And it also talked about  
7 a coal generation unit, one that s used for  
8 the purposes of commercial heating and  
9 cooling purposes.

10 I just -- to me it just looks like  
11 there needs to be a clarification of  
12 exactly what a coal fired electric steam  
13 generating unit is. That it doesn t --  
14 that all of these type of equipment do make  
15 up that definition. So when I first read  
16 it and saw that it just really -- to me, I  
17 had a difficult time understanding it.

18 And then under the 44-3, the  
19 references to the 40 CFR, there is a  
20 misspelling in there, which I m sure you ve  
21 already caught. In that first sentence it  
22 says, Incorporated by Reference as they  
23 "exited" on May 18th and that should be  
24 "existed" on May 18th. And, actually, I  
25 had a question on that, why you stopped at

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1 May 18th, 2005, with the initial EPA  
2 document and didn't take up the two  
3 additional changes that have been made to  
4 this model since then, and I understand  
5 there has been two and one as recently as  
6 June of this year.

7 And I actually had a proposed set of  
8 language that you could possibly use and I  
9 didn't know if there was a real reason to  
10 stop with that model in that CFR or if you  
11 wanted to try to take the more recent and  
12 make the model rule in Oklahoma, or the  
13 recent EPA model. I don't know if you want  
14 to answer that now or if you want to wait?

15 MS. BOTCHLET-SMITH: Bud, I guess  
16 you could go ahead and state what your  
17 proposed language is, for the record.

18 MR. GROUND: My proposal is, is  
19 to -- at the end of that first sentence,  
20 "incorporated by reference as they existed  
21 on May 18, 2005 or as amended prior to the  
22 promulgation of this Subchapter." That

23 would give you time to take up, even if  
24 there were another change to that. And  
25 that s in my comments.

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1 Under 44-7, again, under the  
2 allocational -- allowance allocations --  
3 and I guess I should go back and say that  
4 when you first proposed this and you came  
5 up with the three different scenarios, this  
6 is a scenario that the industry preferred  
7 and we really appreciate you sticking with  
8 the EPA model, we believe it s going to be  
9 easier for the DEQ and for the regulated  
10 entities in the long run and we do  
11 appreciate that.

12 Again, back under the "allocation",  
13 I actually had a question on that 7,900 as  
14 well. I did not go back to the EPA model  
15 and question what that number was because  
16 as you calculate that it essentially limits  
17 your heat input to approximately -- well,

18 less than actual heat input. It s  
19 essentially about 90 percent of heat input.

20 But I do have one proposal under  
21 that same section -- well, actually it  
22 would be more than that one section.  
23 Anytime it refers to a gross electrical  
24 output of generation -- or the generator,  
25 it should be referred to as in kilowatt

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1 hours because the only way that this  
2 calculation could come out right is if that  
3 generation is in kilowatt hours. And that  
4 is in part of my proposal, is just to add  
5 that -- define that a little better.

6 And, again, in that 44-7 under  
7 "allocation" -- I m trying to find exactly  
8 where this is that I made -- well, it s in  
9 (a)(2)(i), it refers to Part 75 of this  
10 chapter and actually it does that several  
11 times. Since there s not page numbers,  
12 it s very difficult but it s (a)(2)(i).

13 MR. BRANECKY: On the third page?

14 MR. GROUND: Third page, about

15 the top third of the paper. And actually

16 it does it more than once. Part 75 of this

17 Chapter, which I think is very confusing

18 since there s not a Part 75 of this

19 Chapter. And I propose that you change

20 that to -- instead of Part 75 of this

21 Chapter, change it to 40 CFR Part 75.

22 And then, again in this same 44-7,

23 (a)(2)(ii)(A), which is where I actually

24 put down that -- the kilowatt hour that

25 more defines in my comments, where that

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1 area was.

2 And then my last comment was

3 actually on 44-9, the Option to Offset

4 Mercury Program Cost, and you have removed

5 that so -- my proposal was to remove that

6 as well.

7 What I remember from past Council

8 meetings is that there was an allocation by  
9 the legislature, two years ago, of a  
10 certain hundreds of thousands of dollars to  
11 actually implement an Air Toxics Program  
12 and we believe that that -- this should be  
13 included in that Air Toxics Program. And  
14 so my comments were to remove it as well.

15 On the new unit set asides, I did  
16 not include that in my comments. I don't  
17 know how I really feel about that. I  
18 believe the way it's written that we'll end  
19 up getting those back if there aren't any  
20 new units. But if you read the paper today  
21 there are basically two new units, new coal  
22 units, proposed in the state of Oklahoma.  
23 So I believe that it's -- one way or  
24 another they'll either be used by a new  
25 unit or they will be given back to those

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1 that have -- that are existing in the  
2 state. So I didn't make any comments but I

3 know there s a difference of opinion even  
4 in industry. But my opinion is that it  
5 should be left in. And those are all my  
6 comments.

7 MR. TERRILL: Let me respond back  
8 and this is not -- this is just kind of a  
9 general comment, it s not really directed  
10 at anything Bud said. But he did mention  
11 about the auction of the allocations and  
12 the one percent hold back and that should  
13 have been covered under the toxics money.

14 Let me be clear that the \$800,000  
15 that we got from the Legislature the last  
16 two years, while it was supposed to be used  
17 for toxics, has been used for toxics and to  
18 help us balance our budget -- because we  
19 continue to run about One Million to a  
20 Million and a-half dollars a year deficit  
21 in our Title V fees that we re making up  
22 with other money.

23 So we don t have any money to look  
24 at mercury under our toxics fee, the way  
25 it s set up now. If we were fully funded

1 we would have money under the \$800,000, to  
2 look at that.

3       What I m going to propose and I ve  
4 asked the -- at least I ve talked to some  
5 of the utilities, but I ve asked them to  
6 stay afterwards so we can talk about how we  
7 move forward on getting out the allocations  
8 and discussion but I also want to talk with  
9 them about a proposal that we re going to  
10 have to maybe collect for a short period of  
11 time, some additional funding to look at  
12 specific issues. We don t necessarily have  
13 to do this but it s something that I will  
14 talk about with the folks that will have to  
15 pay the bill.

16       Eventually, I do agree with Bud,  
17 that we do need to get to where the  
18 \$800,000 does pay for all manner of toxics,  
19 including Mercury, but we re not there yet.  
20 And it just becomes a matter of whether or

21 not we think it s important enough to do  
22 this additional work. And when it s done -  
23 - and that s something that we will talk  
24 through with the folks that obviously want  
25 to pay the bill. And that s where that one

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1 percent -- that s what that one percent was  
2 going to be used for. And it s just going  
3 to be too much -- we d have to change a lot  
4 of different things in order for us to do  
5 the one percent auction and we decided it  
6 wasn t worth while. But we ll talk it over  
7 with the folks affected by this. But your  
8 -- thanks for your comments because they  
9 were good comments.

10 MS. BOTCHLET-SMITH: Do we have  
11 any other comment from the public on this  
12 Subchapter?

13 Hearing none, we ll put this back to  
14 the Council for one more shot at questions  
15 or comments.

16 MR. BRANECKY: Any further  
17 questions from the Council?

18 MS. BOTCHLET-SMITH: Could we get  
19 the staff to restate their recommendation,  
20 please.

21 MR. MOFFETT: Staff asks that the  
22 Council vote to continue this hearing to  
23 the October meeting.

24 MR. BRANECKY: I'll entertain a  
25 Motion from the Council.

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1 MR. PURKAPLE: I move we continue  
2 until the October meeting.

3 MR. BRANECKY: Do I have a  
4 second?

5 MS. WORTHEN: Second.

6 MR. BRANECKY: Myrna, call the  
7 roll, please.

8 MS. BRUCE: Mr. Purkaple.

9 MR. PURKAPLE: Yes.

10 MS. BRUCE: Ms. Worthen.

11 MS. WORTHEN: Yes.  
12 MS. BRUCE: Mr. Treeman.  
13 MR. TREEMAN: Yes.  
14 MS. BRUCE: Mr. Curtis.  
15 MR. CURTIS: Yes.  
16 MS. BRUCE: Dr. Lynch.  
17 DR. LYNCH: Yes.  
18 MS. BRUCE: Mr. Branecky.  
19 MR. BRANECKY: Yes.  
20 MS. BRUCE: Motion approved.  
21 MR. TERRILL: Before we move on,  
22 I want to make it clear that we really need  
23 to pass this rule, at the meeting in  
24 October, in order to meet all the deadlines  
25 that we've got in front of us. So that's

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1 making the assumption that there's been a  
2 suit filed that may or may not stay the  
3 rule but assuming it moves forward, we  
4 really need to get this thing passed in  
5 October.

6           So those of you who are affected by  
7 the rule, please pay careful attention over  
8 the next couple of months as we finalize  
9 this because we really need to pass this in  
10 October so we can send it to the Board at  
11 their next meeting.

12           MR. BRANECKY: With that I would  
13 like to make a Motion we take a break, a  
14 short break before we continue. About five  
15 minutes or so. Is that okay?

16                           (Break)

17                           (End of Proceedings)

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DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF OKLAHOMA

\* \* \* \* \*

TRANSCRIPT OF PROCEEDINGS  
OF THE AIR QUALITY COUNCIL  
REGULAR MEETING  
ITEM NUMBER 4G  
HELD ON JULY 19, 2006, AT 9:00 A.M.  
IN OKLAHOMA CITY, OKLAHOMA

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1 MEMBERS OF THE COUNCIL

2 SHARON MYERS - CHAIR (ABSENT)

3 DAVID BRANECKY - VICE-CHAIR

4 BOB CURTIS - MEMBER

5 BOB LYNCH - MEMBER

6 GARY MARTIN - MEMBER (ABSENT)

7 JERRY PURKAPLE - MEMBER

8 DON SMITH - MEMBER (ABSENT)

9 RICK TREEMAN - MEMBER

10 LAURA WORTHEN - MEMBER

11

12

13 STAFF MEMBERS

14 MYRNA BRUCE - SECRETARY

15 EDDIE TERRILL - DIVISION DIRECTOR

16 DR. JOYCE SHEEDY - AQD

17 MATT PAQUE - LEGAL

18 BEVERLY BOTCHLET-SMITH - AQD

19 MAX PRICE - AQD

20 HEATHER BRAGG - AQD

21 MORRIS MOFFETT - AQD

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1 PROCEEDINGS

2 MS. BOTCHLET-SMITH: The next

3 item on today s Agenda is Number 4G,

4 Appendix H, De Minimis Facilities; Appendix

5 I, Insignificant Activities (Registration)

6 List; Appendix J, Trivial Activities or (De

7 Minimis) List. And we call on Dr. Joyce

8 Sheedy to do the staff presentation.

9 DR. SHEEDY: Mr. Vice-chairman,

10 Members of the Council, ladies and

11 gentlemen.

12 We propose to revise Appendix H, De

13 Minimis Facilities; Appendix I,

14 Insignificant Activities List; and Appendix

15 J, Trivial Activities List. These  
16 revisions were first presented to the  
17 Council at the April 19, 2006 Air Quality  
18 Council Meeting at which time the hearing  
19 was continued to today s meeting. We have  
20 made some changes to the proposed revisions  
21 based on comments that we received at the  
22 last Council meeting.

23 The notice of the proposed rule  
24 changes was published in the Oklahoma  
25 Register on June 15, 2006, and comments

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1 were requested from members of the public.  
2 The revisions to the three Appendices were  
3 subsequently available on the DEQ website.  
4 We received a letter of comments  
5 from Sharon Shelby of AES Shady Point,  
6 dated April 25, 2006, pointing out that  
7 record keeping is required for some of the  
8 activities in Appendix I and suggesting  
9 that this be changed to a one time

10 demonstration. We don't believe that  
11 change is necessary. A one time  
12 demonstration is already allowed by simply  
13 not using the list and demonstrating in  
14 Part 70 permit application that the  
15 activity meets the definition of  
16 insignificant activity in 252:100-8-2.  
17 This letter is included in the Council  
18 packet, along with the summary of comments  
19 and responses, which I believe is available  
20 today on the table by the door.

21 We also received an email on July 28  
22 (sic), 2006, from Rick Barrett of EPA  
23 Region 6, referencing their previous letter  
24 of comments dated April 12, 2006. As  
25 stated in our response to the April 12,

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1 2006 letter, we will give consideration to  
2 EPA's concerns as we complete our revisions  
3 of these appendices. This email arrived  
4 too late to be included in the Council

5 packet.

6 Appendices H, I, and J are not  
7 currently part of our State Implementation  
8 Plan or SIP. Based on the letter dated  
9 April 12, 2006, from Thomas H. Diggs, and  
10 David Neleigh of EPA Region 6 we believe  
11 that prior to SIP approval we will be  
12 required to demonstrate that each activity  
13 on each appendix complies with the  
14 appropriate definition of de minimis  
15 activity , insignificant activity , or  
16 trivial activity .

17 We are in the process of preparing  
18 this demonstration. Unfortunately the  
19 demonstration is requiring more time than  
20 we anticipated. Therefore, we request that  
21 the hearing for the proposed revisions to  
22 Appendices H, I, and J be tabled, to allow  
23 the additional time needed to complete  
24 these demonstrations, make revisions to the  
25 Appendices, based on the results of these

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1 demonstrations, and for public comment on  
2 such changes. Thank you.

3 MS. BOTCHLET-SMITH: Questions or  
4 comments from the Council?

5 MR. PURKAPLE: Dr. Sheedy, I have  
6 a question on Appendix H. It s Item N,  
7 Mobile Sources, and I believe it s the  
8 first one. But my question doesn t come  
9 until Page 6 -- at the top of Page 6.

10 DR. SHEEDY: Uh-huh.

11 MR. PURKAPLE: And it says  
12 portable generators, in parenthesis, that  
13 are moveable by hand , and then it goes on  
14 and says portable pumps, portable air  
15 compressors, portable welding machines, and  
16 portable fueling tanks. That descriptor,  
17 that removable by hand , is that intended  
18 to apply only to portable generators or are  
19 all those portable sources considered --

20 DR. SHEEDY: The way I read it --

21 MR. PURKAPLE: -- to be removable  
22 by hand.

23 DR. SHEEDY: The way I read it it  
24 applies only to portable generators or we  
25 would not have put it -- the parenthesis

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1 would not have been there.

2 MR. PURKAPLE: Okay.

3 DR. SHEEDY: So that s -- I don t  
4 think we ve made a change to this  
5 particular thing. That s the way it was  
6 previously.

7 MR. PURKAPLE: Okay.

8 DR. SHEEDY: If you think it  
9 needs to be changed to "applies to all" we  
10 would certainly consider that.

11 MR. PURKAPLE: I would think that  
12 -- give that consideration.

13 DR. SHEEDY: Okay. I will do  
14 that.

15 MR. PURKAPLE: Okay. And then  
16 under Appendix I, this would be K, Storage  
17 Tanks/Distribution and Item 5. The

18 reference is there, the last part of 5,  
19 "that store VOC with a vapor pressure less  
20 than 1.5." I d suggest that -- and I  
21 assume you re talking about true vapor  
22 pressure.

23 DR. SHEEDY: I think so but I ll  
24 --

25 MR. PURKAPLE: Okay. And then

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1 I m wondering if maybe less than or equal  
2 to 1.5 instead of less than 1.5.

3 DR. SHEEDY: What did I say?  
4 Less than or equal to? I ll check that  
5 out.

6 MR. PURKAPLE: Okay. Thank you.

7 MS. BOTCHLET-SMITH: Other  
8 questions from the Council? I ve received  
9 one Notice of Oral Comment from Mr. Don  
10 Whitney, with Trinity Consultants. If  
11 you ll please step to the podium.

12 MR. WHITNEY: Thank you. I m Don

13 Whitney with Trinity Consultants. I d like  
14 to make a few comments on behalf of several  
15 of our clients.

16 First off, in the categories of  
17 activities here, I d like to, again, repeat  
18 a comment that was made, or a  
19 recommendation in general by the Oklahoma  
20 Independent Petroleum Association, and that  
21 would be to add a category into these  
22 lists, both in the "H" list for De Minimis  
23 and "I" for Insignificant Activities, the  
24 category for construction activities.

25 As far as I know, I don t think

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1 there s ever been an air permit issued for  
2 construction activities in the state and  
3 yet there are these events that go on  
4 rather frequently, where there might be  
5 portable generators put out there. And I  
6 think that category would be helpful not  
7 only for general construction but also

8 specifically for the oil and gas E and P  
9 industry where these are temporary  
10 activities, as most construction is, it s a  
11 temporary activity.

12       You do an E and P, Exploration and  
13 Production development, you re drilling a  
14 well for a certain period of time, for  
15 example, and then there s a certain period  
16 of time or proving and testing out the well  
17 and there s a big gray area there that  
18 concerns a number of our clients of, are we  
19 subject to permitting here? And as far as  
20 I know, we ve never issued permits in this  
21 area but it would be most helpful to  
22 clearly state as an exempt activity, that  
23 such activities were not subject to  
24 permitting within certain bounds.

25       Secondly, I d like to suggest that

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1 the record keeping -- that we be a little  
2 more specific, that staff consider making

3 some changes in these Insignificant and De  
4 Minimus Activities to ease the record  
5 keeping burden of what s required in  
6 tracking these sources.

7 I ve seen some permits, recently,  
8 where not only the listed emission points  
9 but even insignificant activities are asked  
10 to record monthly usage of gasoline or  
11 welding rods, or things like this, for  
12 example, which to me is extreme overkill of  
13 record keeping. And, certainly, annual  
14 record keeping of these is sufficient. But  
15 even more so, I think you might apply the  
16 same procedure that was done for the 30  
17 percent change in the emission inventories,  
18 where instead of making that an automatic  
19 requirement for everybody to document and  
20 report when you had a 30 percent change in  
21 your emission inventory, it was just  
22 recently approved here to be based on the  
23 request of DEQ to verify, to show, to  
24 justify when that 30 percent changed and  
25 why it happened.

1           Therefore, I d like to recommend we  
2 apply that same principle to the  
3 verification of trivial and insignificant  
4 activities, so that they re not -- so that  
5 the record keeping function is not required  
6 for those, it simply would be a requirement  
7 to justify it, at the request of DEQ.

8           And a final improvement would be to  
9 exempt those activities from annual  
10 emission inventory. That would really  
11 provide some benefit to these insignificant  
12 activities who, I think the concept is,  
13 we re chasing after the last, perhaps, one  
14 percent of emissions and yet there s a lot  
15 of record keeping that goes on to track  
16 down the last one percent that s probably  
17 not worth the effort.

18           Thank you for your consideration.

19           MS. BOTCHLET-SMITH: Are there  
20 any other comments from the public?

21 Additional questions from the Council?

22 Dr. Sheedy, could you restate the staff

23 recommendation, please?

24 DR. SHEEDY: The staff

25 recommendation is that we table this

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12

1 proposed revision to these three Appendices

2 until we can finish our demonstration of

3 each item on each list, actually, meets the

4 definitions of the appropriate trivial

5 activity, insignificant activity, or de

6 minimis activity.

7 MR. BRANECKY: So we re not

8 continuing until the next Council meeting,

9 you re going to table it until such time

10 you re ready to bring it back to us?

11 DR. SHEEDY: Yes, that s what we

12 propose.

13 MR. BRANECKY: Staff has made a

14 recommendation. I need a Motion on that.

15 DR. LYNCH: I ll move that we

16 table the recommendations until staff is

17 ready to bring it back.

18 MR. BRANECKY: Do I have a

19 second?

20 MR. CURTIS: Second.

21 MR. BRANECKY: Myrna.

22 MS. BRUCE: Mr. Purkaple.

23 MR. PURKAPLE: Yes.

24 MS. BRUCE: Ms. Worthen.

25 MS. WORTHEN: Yes.

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13

1 MS. BRUCE: Mr. Treeman.

2 MR. TREEMAN: Yes.

3 MS. BRUCE: Mr. Curtis.

4 MR. CURTIS: Yes.

5 MS. BRUCE: Dr. Lynch.

6 DR. LYNCH: Yes.

7 MS. BRUCE: Mr. Branecky.

8 MR. BRANECKY: Yes.

9 MS. BRUCE: Motion approved.

10 MS. BOTCHLET-SMITH: That

11 concludes the hearing portion of today s

12 meeting. David.

13

14 (End of proceedings)

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2 CERTIFICATE

3 STATE OF OKLAHOMA )

4 ) ss:

5 COUNTY OF OKLAHOMA )

6 I, CHRISTY A. MYERS, Certified  
7 Shorthand Reporter in and for the State of  
8 Oklahoma, do hereby certify that the above  
9 proceedings is the truth, the whole truth,  
10 and nothing but the truth; that the  
11 foregoing proceedings was taken down in  
12 shorthand and transcribed under my  
13 direction; that said proceedings weretaken  
14 on the 19th day of July, 2006, at Oklahoma  
15 City, Oklahoma; and that I am neither  
16 attorney for nor relative of any of said  
17 parties, nor otherwise interested in said  
18 action.

19 IN WITNESS WHEREOF, I have hereunto  
20 set my hand and official seal on this, the  
21 10th day of August, 2006.

22

23 CHRISTY A. MYERS, C.S.R.  
24 Certificate No. 00310

25

26

Christy A. Myers

Certified Shorthand Reporter