

MINUTES
AIR QUALITY ADVISORY COUNCIL
July 18, 2012
OSU – Tulsa Campus
700 North Greenwood Drive
Tulsa, Oklahoma

Official after AQC Approval^{ed}
at ~~October 17, 2012~~ meeting *(Special)*
November 14, 2012

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. on July 18, 2012, at the OSU Tulsa Campus, 700 North Greenwood Drive, Tulsa, Oklahoma. Notice of the meeting was forwarded on November 23, 2011, to the Office of the Secretary of State giving the date, time, and place of the meeting. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division, acted as Protocol Officer and convened the hearings by the Air Quality Advisory 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. She entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Jeanette Nance called roll and confirmed that a quorum was present.

MEMBERS PRESENT

David Branecky
Montelle Clark
Gary Collins
David Gamble
Jim Haught
Laura Lodes
Sharon Myers

DEQ STAFF PRESENT

Eddie Terrill
Beverly Botchlet-Smith
Cheryl Bradley
Brooks Kirlin
Rob Singletary
Madison Miller
Rhonda Jeffries

DEQ STAFF PRESENT

Scott Thomas
Heather Lerch
Nancy Marshment
Diana Hinson
Dawson Lasseter
Phillip Fielder
Jeanette Nance
Quiana Fields

MEMBERS ABSENT

Robert Lynch

OTHERS PRESENT

Christy Myers, Court Reporter

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

Approval of Minutes – January 18, 2012 Regular Meeting Ms. Lodes called for a motion for approval. Mr. Haught moved to approve and Mr. Branecky made the second.

See Transcript pages 4 - 5

David Branecky	Yes	Jim Haught	Yes
Montelle Clark	Yes	Sharon Myers	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

OAC 252:100-25 Visible Emissions and Particulates

OAC 252:100-31 Control of Emission of Sulfur Compounds

Mr. Brooks Kirlin, Engineer with the Rules and Planning Section, stated that the Department of Environmental Quality (DEQ) is proposing to amend requirements of Subchapter 25, Visible Emission and Particulates; and Subchapter 31, Control of Sulfur Compounds, to move an existing opacity monitoring requirement. This proposal is not intended to add any additional

requirements for facilities subject to either Subchapter or to be a comprehensive review of Subchapter 25. The staff agrees that under Chapter 100's current structure the requirement belongs in Subchapter 25. The Subchapter 31 opacity monitoring requirement applies to any new fuel-burning equipment with a design heat input value of 250 million BTU's per hour or more. The one proposed change to Subchapter 31 is to remove the language from Section 31-25 and to adjust the numbering and paragraph heading accordingly. Following a lengthy discussion by Council and input from the public, Ms. Lodes recommended that the Council carry the proposed changes forward. Ms. Myers made a motion to carry the proposed changes to the next meeting. Mr. Gamble made the second.

	<i>See Transcript pages 7 - 45</i>			
David Branecky	Yes	Jim Haught	Yes	
Montelle Clark	Yes	Sharon Myers	Yes	
Gary Collins	Yes	Laura Lodes	Yes	
David Gamble	Yes			

OAC 252:100-2 Incorporation by Reference [AMENDED]

Appendix Q. Incorporation by reference [REVOKED]

Appendix Q. Incorporation by reference [NEW]

Ms. Nancy Marshment, Environmental Program Specialist, stated the department is proposing to update language in Subchapter 2, Incorporation by Reference, to reflect the new date of incorporation for Appendix Q. In addition, the Department is proposing to revoke the current Chapter 100, Appendix Q, Incorporation by Reference, and adopt a new Appendix Q. This proposal is part of the annual update of Title 40 Code of Federal Regulations, Incorporations by Reference in Chapter 100. Changes to Appendix Q have been updated to reflect federal regulations that have been implemented as of June 1, 2012. The update would also incorporate any amendments to standards currently listed in Appendix Q. Staff requests that the Council postpone this rulemaking to a later Council meeting due to several additional changes and additions that are pending at the federal level. There were no comments by the Council or the public. The staff recommended the Council carry the rulemaking over. Ms. Myers moved that motion. Mr. Gamble made a second.

	<i>See Transcript pages 45-49</i>			
David Branecky	Yes	Jim Haught	Yes	
Montelle Clark	Yes	Sharon Myers	Yes	
Gary Collins	Yes	Laura Lodes	Yes	
David Gamble	Yes			

Presentation: Public Participation in Air Quality – Heather Lerch, Environmental Programs Specialist, provided handouts and gave a presentation on rulemaking process.

Division Director's Report - Mr. Eddie Terrill, Air Quality Division Director, welcomed new staff, Jeanette Nance and Quiana Fields, to the Council. He also, provided an update of the ozone overview and announced David Branecky's resignation from the Air Quality Advisory Council.

New Business – None

Adjournment – Ms. Lodes adjourned the meeting at 10:45 a.m.

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

Myers Reporting

Sheet 1 Page 1

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL MEETING
ON JULY 18, 2012, AT 9:00 A.M.
HELD IN TULSA, OKLAHOMA

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MYERS REPORTING SERVICE
Christy Myers, CSR
P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
(405) 721-2882

Myers Reporting

<p>Sheet 2 Page 2</p> <p>1 MEMBERS OF THE COUNCIL 2 LAURA LODES 3 DAVID BRANECKY 4 JIM HAUGHT 5 DAVID GAMBLE 6 GARY COLLINS 7 MONTELLE CLARK 8 SHARON MYERS 9 ROBERT LYNCH 10 STAFF 11 JEANETTE NANCE 12 QUIANA FIELDS 13 CHERYL BRADLEY 14 BROOKS KIRLIN 15 NANCY MARSHMENT 16 ALSO PRESENT: 17 (SEE SIGN-IN SHEET)</p>	<p>Page 4</p> <p>1 (Comments) 2 MS. LODES: Okay. That 3 sounds better. The next item on 4 today's Agenda is the approval of the 5 Minutes from the January 18, 2012 6 regular meeting. 7 Do we have any comments or 8 discussions on the Minutes? If there 9 is no discussion on the Minutes, do 10 we have a -- I need a motion to 11 approve the Minutes? 12 MR. HAUGHT: So moved. 13 MS. LODES: I need a 14 second. 15 MR. BRANECKY: Second. 16 MS. LODES: Okay. I have a 17 motion and a second. Jeanette, would 18 you please call roll. 19 MS. NANCE: Mr. Branecky. 20 MR. BRANECKY: Yes. 21 MS. NANCE: Mr. Clark. 22 MR. CLARK: Yes. 23 MS. NANCE: Mr. Collins. 24 MR. COLLINS: Yes. 25 MS. NANCE: Mr. Gamble.</p>
<p>Page 3</p> <p>1 PROCEEDINGS 2 MS. LODES: I'd like to 3 call today's meeting to order. And 4 this would be today's Air Quality 5 Council meeting for July 18th and 6 Jeanette would you please call roll. 7 MS. NANCE: Mr. Branecky. 8 MR. BRANECKY: Here. 9 MS. NANCE: Mr. Clark. 10 MR. CLARK: Present. 11 MS. NANCE: Mr. Collins. 12 MR. COLLINS: Present. 13 MS. NANCE: Mr. Gamble. 14 MR. GAMBLE: Here. 15 MS. NANCE: Mr. Haught. 16 MR. HAUGHT: Here. 17 MS. NANCE: Mr. Lynch is 18 absent. Ms. Myers. 19 MS. MYERS: Here. 20 MS. NANCE: Ms. Lodes. 21 MS. LODES: Here. 22 The next item on today's Agenda 23 is the approval of the Minutes. 24 Can you all hear me in the 25 back? Can you hear? Okay.</p>	<p>Page 5</p> <p>1 MR. GAMBLE: Yes. 2 MS. NANCE: Mr. Haught. 3 MR. HAUGHT: Yes. 4 MS. NANCE: Ms. Myers. 5 MS. MYERS: Yes. 6 MS. NANCE: Ms. Lodes. 7 MS. LODES: Yes. 8 MS. BOTCHLET-SMITH: Okay. 9 Ready for the hearing? 10 MS. LODES: Ready for the 11 hearing. Okay. 12 MS. BOTCHLET-SMITH: Good 13 morning. I'm Beverly Botchlet-Smith. 14 I'm the Assistant Director of the Air 15 Quality Division and as such I'll 16 serve as the Protocol Officer for 17 today's hearings. 18 The hearings will be convened 19 by the Air Quality Council in 20 compliance with the Oklahoma 21 Administrative Procedures Act and 22 Title 40 of the Code of Federal 23 Regulations, Part 51, as well as the 24 authority of Title 27A of the 25 Oklahoma Statutes, Section 2-2-201,</p>

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<p>Sheet 3 Page 6</p> <p>1 Sections 2-5-101 through 2-5-118. 2 Notice of the July 18, 2012 3 hearings were advertised in the 4 Oklahoma Register for the purpose of 5 receiving comments pertaining to the 6 proposed OAC Title 252 Chapter 100 7 rules as listed on the Agenda and 8 will be entered into each record 9 along with the Oklahoma Register 10 filing. Notice of the Meeting was 11 filed with the Secretary of State on 12 November 23, 2011. The Agenda was 13 duly posted 24 hours prior to the 14 meeting at this facility and also at 15 DEQ.</p> <p>16 If you wish to make a 17 statement, it is very important that 18 you complete the form at the 19 registration table and then you will 20 be called upon at the appropriate 21 time. Audience members, please 22 remember when you agree to come to 23 the podium to make your comments and 24 please state your name prior to 25 making your comments.</p>	<p>Page 8</p> <p>1 <u>requirements of Subchapter 25,</u> 2 <u>Visible Emissions and Particulates;</u> 3 <u>and Subchapter 31, Control of Sulfur</u> 4 <u>Compounds, to move an existing</u> 5 <u>opacity monitoring requirement. This</u> 6 <u>proposal is not intended to add any</u> 7 <u>additional requirements for</u> 8 <u>facilities subject to either</u> 9 <u>subchapter or to be a comprehensive</u> 10 <u>review of Subchapter 25.</u></p> <p>11 You may recall that during our 12 extended discussions on changes to 13 the sulfur requirements Subchapter 14 31, Council Members and others 15 questioned why an opacity monitoring 16 requirement was included in the 17 subchapter. I have not found any 18 discussion in the old records of the 19 reason for originally including the 20 opacity monitoring requirement, 21 although it was included in the first 22 handwritten draft of the rules circa 23 1971. I would guess that monitoring 24 the visible emissions was another way 25 of tracking variability of sulfur</p>
<p>Page 7</p> <p>1 At this time, we'll proceed 2 with what is marked as Agenda Item 3 <u>Number 4A on the Hearing Agenda.</u> 4 <u>That is OAC 252:100-25, Visible</u> 5 <u>Emissions and Particulates; and OAC</u> 6 <u>252:100-31, Control of Emissions of</u> 7 <u>Sulfur Compounds. And Mr. Brooks</u> 8 <u>Kirlin will be giving the staff</u> 9 <u>presentation today.</u></p> <p>10 MR. KIRLIN: Excuse me. 11 I've got a cold so my voice is a 12 little bit (inaudible). Can you hear 13 me?</p> <p>14 (Comment)</p> <p>15 MR. KIRLIN: Madam Chairman, 16 Members of the Council, ladies and 17 gentlemen, I'm Brooks Kirlin, I'm an 18 Engineer with the Rules and Planning 19 section. And this morning in honor 20 of Mr. Branecky in particular and 21 others --</p> <p>22 MR. BRANECKY: Blame it on 23 me.</p> <p>24 MR. KIRLIN: -- the 25 <u>Department is proposing to amend</u></p>	<p>Page 9</p> <p>1 <u>content in solid and liquid fuels.</u> 2 <u>→ Our staff agrees that under</u> 3 <u>Chapter 100's current structure the</u> 4 <u>requirement belongs in Subchapter 25.</u> 5 <u>This is the first time for the</u> 6 <u>Council to consider these proposed</u> 7 <u>amendments to Subchapters 25 and 31.</u> 8 <u>The Subchapter 31 opacity</u> 9 <u>monitoring requirement applies to any</u> 10 <u>new fuel-burning equipment with a</u> 11 <u>design heat input value of 250</u> 12 <u>million BTU's per hour or more. New</u> 13 <u>in this case means built or modified</u> 14 <u>after July 1, 1972. The requirement</u> 15 <u>does not apply if only gaseous fuel</u> 16 <u>is burned.</u></p> <p>17 The only proposed change to 18 Subchapter 31 is to remove the 19 <u>language from Section 31-25 and to</u> 20 <u>adjust the numbering and paragraph</u> 21 <u>heading accordingly. Not</u> 22 <u>surprisingly inserting the</u> 23 <u>requirement into Subchapter 25 was a</u> 24 <u>little bit trickier. The existing</u> 25 <u>Section 25-5, Continuous Emission</u></p>

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Sheet 4 Page 10

1 Monitoring for Opacity applies to
2 fluid bed catalytic cracking unit,
3 catalyst regenerators at petroleum
4 refineries and fossil fuel-fired
5 steam generators. This section does
6 not specify size or construction date
7 limitations for applicability, but
8 does exempt sources that are subject
9 to New Source Performance Standards
10 under 40 CFR Part 60.

11 We restructured the Section a
12 bit to accommodate the change and to
13 align the language with last year's
14 changes to similar sections in
15 Subchapter 31. We propose to apply
16 the exemption for NSPS sources to the
17 Subchapter 31 fuel-burning equipment.
18 And we propose to remove a provision
19 that no longer applies. We also
20 propose to remove some non-regulatory
21 example language from what would now
22 be numbered 25-5(c), which was
23 formerly Paragraph (d). The language
24 outlines an example of alternative
25 monitoring requirements for a

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1 particular type of facility.
2 Although the preceding sentence
3 states that alternative monitoring
4 requirements may be approved on a
5 case-by-case basis and the sentence
6 itself is prefaced with, "for
7 example", it could be misinterpreted
8 as authorizing those alternative
9 monitoring requirements without
10 further evaluation. Nothing would
11 preclude the Director from approving
12 such alternative requirements if
13 appropriate, but such an example
14 would best be included, we believe,
15 in a fact sheet or a guidance
16 document. Note that we have checked
17 with the Permit Section and they were
18 not aware of a case where this
19 particular provision for the example
20 was included in a permit.

21 Again today's proposal is
22 intended to move an existing opacity
23 monitoring requirement from sulfur
24 emissions subchapter to the
25 subchapter that deals with visible

Page 12

1 emissions and particulates. It's not
2 intended to add any requirements for
3 facilities subject to either
4 subchapter.

5 Notice of the proposed changes
6 was published in the Oklahoma
7 Register on June 15, 2012. We
8 received one communication Monday
9 from Mr. William Hildeson of AEP, and
10 yesterday Mr. Hildeson provides us
11 with an electronic copy of comments
12 -- the comments he intends to submit
13 today.

14 Staff has briefly reviewed the
15 comment, and we've provided a copy of
16 that letter in your folder. I'll
17 defer to Mr. Hildeson for his oral
18 comments. I understand that we may
19 have just received a comment from
20 EPA.

21 At this time the staff asks
22 that the Council recommend the
23 proposed rules to the Environmental
24 Quality Board for approval as a
25 permanent rule change.

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1 MS. BOTCHLET-SMITH: Thank
2 you. Do we have any questions from
3 the Council for Mr. Kirilin?

4 Okay. Hearing no questions at
5 this time, I'd like Mr. William
6 Hildeson to come forward and make his
7 comments and then if you decide you
8 have comments after that we can
9 address them.

10 MR. HILDESON: Thank you.
11 My name is William Hildeson and I
12 represent American Electric Power. I
13 have comments specifically on Section
14 25-5 Part (d) in Subchapter 100. I
15 have no comments on the reason for
16 removing the opacity language from
17 Subchapter 31, if I remember
18 correctly, into this rule. My
19 comments are specifically for the
20 exemption currently stated that
21 specifically states the VE language,
22 the VE monitoring is allowed for
23 certain situations.

24 In my comments I provided some
25 -- the very small sample size

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<p>Sheet 5 Page 14</p> <p>1 estimates of what a continuous 2 opacity monitor would cost; estimates 3 of how much annual labor would be 4 spent. And I do not believe that -- 5 well, my estimate again, on a very 6 small sample size, is that a COMS 7 would cost less than \$100,000.00. If 8 the language that remains in the rule 9 and I'm looking at VE Exemption that 10 remains -- the language that remains 11 is extreme economic reasons, 12 justifying the COMS then becomes 13 easier because there is nothing about 14 logic in there. And I understand 15 writing a rule is difficult and I 16 have kudos to Mr. Kirlin because I 17 don't have to do that. I can just 18 state what I think and that's it.</p> <p>19 But basically once you install 20 COMS you cannot turn it off. In the 21 case of a natural gas plant that is 22 dual permitted for fuel oil, you're 23 going to do that for emergency 24 situations, in case of natural gas 25 for curtailment. Talking to people</p>	<p>Page 16</p> <p>1 year, they consider that to be a 2 fuel-oil facility. So for a natural 3 gas, primarily natural gas fired 4 facility, you would then not exceed 5 that threshold.</p> <p>6 The other Da and Db also 7 provide exemptions from opacity 8 monitoring in certain situations. 9 They specifically allow you to 10 conduct VES or you can monitor your 11 fuel for a sulfur content. It 12 depends on -- for some there are 13 conditions in there and Da as a rule 14 is very difficult to read, but the 15 threshold is .3 percent sulfur -- .3 16 weight percent.</p> <p>17 And the final point is that 18 the MATS rule as proposed and as 19 currently in existence allows a coal 20 plant to install PM CEMS and not 21 monitor opacity. This exemption, 22 again with the low cost threshold of 23 installing and having a COMS 24 presents the opportunity that you 25 would then be monitoring particulate</p>
<p>Page 15</p> <p>1 anecdotally it hasn't occurred 2 recently but it has occurred in the 3 '70s and '80s and mainly in the 4 winter due to cold weather where 5 demand outstripped supply. All of 6 those situations, of course, occurred 7 before the shale gas and that may 8 have changed situations, but 9 predicting when they're going to the 10 natural gas curtailment is difficult 11 and, of course, impossible. So the 12 rules should be more specific and 13 allow an exemption beyond extreme 14 economic reasons. It should contain 15 some sort of threshold that is more 16 specifically stated.</p> <p>17 In my comments you'll see that 18 the MATS rule as currently proposed, 19 has a definition for a fuel-oil fired 20 facility. They say that if you 21 fired fuel-oil for ten percent over 22 three years. Ten percent of the 23 average annual heat input during any 24 three consecutive years or 15 percent 25 of the annual heat input during one</p>	<p>Page 17</p> <p>1 matter and opacity at the same time 2 and while they are not directly 3 related there is a correlation 4 between them. So it makes sense to 5 monitor one or the other, not both, 6 in my mind.</p> <p>7 I feel that the -- this 8 proposed rule should account for 9 these exemptions that are relatively 10 inexpensive, currently federally 11 approved through current rules, and 12 I'm not going to place any money on 13 whether the MATS rule succeeds and 14 stands up. I'm not that -- not that 15 type of person, but there are cheaper 16 and easier methods than installing 17 the opacity monitor. And again by 18 removing the language in 25-5 Part 19 (d), this threshold changes in -- as 20 I read the proposed rule.</p> <p>21 If I'm a permit writer, it 22 becomes hard to permit fuel-oil in 23 emergency situations -- fuel-oil for 24 emergency situations. Speaking 25 globally, there is, of course, the</p>

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<p>Sheet 6 Page 18</p> <p>1 sulfur NAAQS which might potentially 2 limit fuel-oil but that should not be 3 a consideration for this rule as the 4 justification for these proposed 5 changes are to streamline and make 6 particulate matter rules that go with 7 the particulate matter rule. 8 Thank you for your time. I do 9 have extra copies for anybody in the 10 audience that would like to see. 11 MS. LODES: I have a 12 question. When I read through this 13 the only thing that has really 14 changed in the Subchapter -- in the 15 100-25 is the addition of Item 3 16 where it says, "any fuel burning 17 equipment with a designed heat value 18 of 250 MBTUs per hour that does not 19 burn gaseous fuel". 20 Is this the new requirement 21 that you're discussing? Because 22 nothing -- I mean is that the -- is 23 this the whole bullet that has all 24 of your area of concern? Because 25 the removal in (d) is just an</p>	<p>Page 20</p> <p>1 MR. HILDESON: That's 2 correct. In 20 years, the permitting 3 of a dual fueled facility I think 4 will still be much harder, but having 5 a COMS -- it's helpful to have this 6 language in there and -- 7 MS. LODES: Okay. 8 MR. HILDESON: -- like I 9 said earlier, I don't have to write 10 the rule. It would be my preference 11 that this example be left. 12 MS. LODES: Okay. 13 MR. HILDESON: I think the 14 other proposed language as an 15 alternative, that can also be, I 16 guess, thrown out and have the 17 example left. I think it's very 18 helpful to say specifically this is 19 -- has been reviewed by the Council 20 and by the ODEQ and is an acceptable 21 alternative in certain situations. 22 Of course, discretion still remains 23 with the permit writer and the DEQ 24 as you point out it says for 25 example.</p>
<p>Page 19</p> <p>1 example. 2 MR. BRANECKY: I think it's 3 the removal of -- 4 MS. LODES: The example 5 language in (d)? 6 MR. HILDESON: That's not 7 exactly right. 8 MS. LODES: Okay. So 9 that's -- I was going to say, that's 10 just -- and Brooks, my understanding 11 for (d) and I want this clarified, 12 is that the part that was struck in 13 (d) where it says "for example", that 14 is strictly example language and 15 wasn't anything regulatory binding. 16 MR. KIRLIN: That's -- 17 MR. HILDESON: That's 18 absolutely correct. I think Brooks 19 and I are in agreement on that. 20 MS. LODES: Okay. So 21 strike -- whether that's left in 22 there or struck that doesn't really 23 make any difference, because that's 24 why it was taken out. It's just for 25 an example.</p>	<p>Page 21</p> <p>1 MS. LODES: Okay. 2 MR. HAUGHT: so I guess 3 that -- that would be kind of a 4 comfort level. I mean, potentially, 5 if you didn't have that in there to 6 allow the Method 9 then somebody 7 could say well, that's a totally 8 different -- this rule states 9 technology based monitoring and so an 10 alternative would be another 11 technology based monitoring where you 12 think you get more -- where you get 13 more comfort. Is that -- that you 14 can go to this manual -- 15 MR. HILDESON: Again, this 16 is a small sample size of basically 17 me. But a \$100,000.00 is not really 18 an extreme economic reason for me. 19 If I'm a permit writer that's not a 20 -- I would require pumps because that 21 threshold changes. By specifically 22 stating you can do VE monitoring for 23 this rule. It gives an example. 24 There are no examples, there is no 25 thresholds to say two percent, three</p>

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<p>Sheet 7 Page 22</p> <p>1 percent of a new facility -- 2 MS. LODES: Okay. 3 MR. HILDESON: -- for costs. 4 What does extreme mean? And that's 5 the beauty of Brooks' job is that he 6 has to -- well I don't have to do 7 that so I have sympathy for him. 8 MS. LODES: Okay. Okay. 9 So that's the area of your concern 10 is removal of that example and then 11 the -- then that. I was looking at 12 your proposed language. 13 Does anybody else have any 14 questions? 15 MS. MYERS: I guess I'm 16 going to plead ignorance and put it 17 out on the table. How many of the 18 facilities are affected by this? How 19 many -- 20 (Multiple voices) 21 MS. MYERS: -- how many of 22 the facilities are affected by this 23 and how many of the gas-fired power 24 plants have opacity monitors? 25 MS. BOTCHLET-SMITH: Brooks,</p>	<p>Page 24</p> <p>1 their option. So I'm not sure what 2 the sample size is really -- I mean 3 like I said I don't know of a new 4 facility being built that wouldn't be 5 subject to the NSPS that would be 6 subject to this. 7 MR. BRANECKY: Are there 8 other facilities besides utilities? 9 I mean we're talking just fuel -- 10 MR. KIRLIN: There are. I 11 mean, because we moved the fuel 12 burning equipment over 250 million 13 BTU per hour heat input. I suppose 14 because the steam electric generator 15 is already included -- is already in 16 the Subchapter and section. I guess 17 non-generators that are -- have that 18 large fuel burning equipment, and I 19 guess it's not the refinery item. 20 I'm sure there are some here. 21 MS. MYERS: Well, cement 22 plants did. 23 MR. KIRLIN: Yeah. 24 MS. MYERS: There is other 25 major sources that --</p>
<p>Page 23</p> <p>1 would you like to address that 2 question. 3 Thank you, Mr. Hildeson. 4 MR. KIRLIN: We have had 5 this -- I had discussion with our 6 permit folks and I don't know -- we 7 weren't aware of -- we have 8 facilities, obviously, that are 9 natural gas with an oil backup. But 10 we're not aware of any that have 11 actually used that alternative. 12 Remember that the -- as far as, you 13 know, we're talking about the power 14 plants, most of them -- I guess 15 unless they were built before 1971, 16 most of them are going to be subject 17 to an NSPS and with -- so then 18 exempted from -- 19 MS. LODES: All of them. 20 From this entire thing. 21 MR. KIRLIN: Right. That 22 have to follow NSPS. And so using 23 the alternative monitoring that's 24 allowed under Da, you know, that 25 would still be there, that would be</p>	<p>Page 25</p> <p>1 MR. KIRLIN: Right. And 2 I'm not sure if any of those that -- 3 I guess some of the older ones might 4 be subject -- not subject to the 5 NSPS. 6 MR. BRANECKY: Well does DEQ 7 -- maybe I missed it, but does DEQ 8 have a concern with this language -- 9 by putting this language or leaving 10 this in Subchapter 25? 11 MR. KIRLIN: I guess my 12 concern is having an example that's 13 -- I mean that's specific -- I mean 14 an example without any indication. I 15 mean it's still a case by case or 16 not, so it's a confusing 17 interpretation. Apparently we chose 18 not to say, and this is a specific 19 one that is authorized without 20 further evaluation. But -- 21 MS. LODES: And then his -- 22 part of one of his other comments is 23 about the definition of gaseous fuel. 24 I know we've had this discussion 25 before, because I remember us having</p>

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<p>Sheet 8 Page 26</p> <p>1 questions on this -- on the 2 definition on some of these. Do we 3 not have -- and I'll bet we've got 4 here, gaseous fuel defined in the 5 rules at all currently? 6 MR. KIRLIN: I don't think 7 we've -- found it. 8 (Multiple voices) 9 MS. LODES: Okay. 10 (Multiple voices) 11 MS. LODES: Is that the one 12 that we -- because there were some 13 that we clarified at, it seems like, 14 the January Council Meeting. 15 MS. BRADLEY: Cheryl 16 Bradley, Department of Environmental 17 Quality, Air Quality Division. I 18 believe we -- what you are recalling, 19 Ms. Lodes, is the discussions we had 20 pursuant to Subchapter 33, the NOx 21 rule. We did add a definition for 22 solid fossil fuel because there was a 23 question of petroleum Coke but it was 24 to be classified as a solid fossil 25 fuel or as a liquid fuel.</p>	<p>Page 28</p> <p>1 encountered a problem in defining 2 fuels as to -- with regards to their 3 physical state to date. And in 4 defining the term we may in fact 5 have unintended consequences and 6 limit the applicability of the 7 standard inadvertently. But the only 8 instance where we've had to deal with 9 classification of fuel, based on 10 something other than its physical 11 state, was the issue of petroleum 12 Coke. And the origin of that 13 particular fuel being liquid and then 14 conversion to a solid we had to put 15 it in one classification or the 16 other. 17 MS. LODES: Okay. 18 MS. BRADLEY: So the -- in 19 conferring with Brooks we did not 20 feel comfortable making the change to 21 adopt the definition. Also the 22 language that was proposed 23 essentially allowed -- did not define 24 gaseous fuel it says included but not 25 limited to, so we really don't have</p>
<p>Page 27</p> <p>1 MS. LODES: Okay. 2 MS. BRADLEY: And recently 3 the contacts for discussion of fuels 4 was limited to alternative fuels. 5 When we had Subchapter 31 open and 6 under discussion in January, we 7 wanted to clarify that the 8 alternative fuels, which may not have 9 been anticipated or understood at the 10 time we had originally proposed and 11 adopted Subchapter 31 would be 12 covered under the sulfur rules as 13 alternative fuel such as bio-gas. 14 MS. LODES: Okay. Because 15 we don't have a definition of gaseous 16 fuel, Brooks, in this would there be 17 a problem with linking a gaseous fuel 18 to a definition in one of the -- as 19 he suggested in here, into the 20 NESHAP? Do you all see an issue 21 with that? 22 MS. BRADLEY: We have -- in 23 getting the suggestive language so 24 late we haven't been able to actually 25 evaluate it fully. We have not</p>	<p>Page 29</p> <p>1 a definition. The only thing that 2 truly comes out of that suggested 3 language is that it doesn't, I 4 believe, blast furnace gas and it's 5 never been an issue in Oklahoma. 6 And I don't think we have any 7 facilities at this time with a blast 8 furnace. So the staff recommendation 9 would be to not add that change. 10 MS. LODES: Okay. Is there 11 any -- 12 MS. BOTCHLET-SMITH: I have 13 another individual from the public 14 wishing to comment. Mr. Derrick 15 Kinard (phonetic). 16 MR. KINARD: Good morning. 17 I just want to, I guess, enter into 18 the record the EFO -- I represent 19 EFO, Environmental Federation of 20 Oklahoma. I'm the Air Quality 21 Chairman. That organization 22 submitted some comments that might 23 have been late, but one thing that I 24 heard during the discussion this 25 morning that was of concern to some</p>

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<p>Sheet 9 Page 30</p> <p>1 of our members was that there's some 2 exemptions that still exists for 3 opacity monitoring in Subchapter 25, 4 subject to NSPS you do not have to 5 monitor opacity. One of the -- the 6 key points that we thought could be 7 interpreted in Section 3 of 8 Subchapter 25 for opacity levels, it 9 says for facilities -- facilities 10 that are subject to an opacity limit 11 through NSPS. And if you take the 12 (D) or Da exemption you would no 13 longer be subject to an NSPS opacity 14 limit. So there's just a concern 15 that it could be construed that you 16 weren't really subject to a limit 17 under the NSPS any longer under the 18 rule.</p> <p>19 So we want to comment that -- 20 and we want to make sure that you 21 can still not be required to monitor 22 opacity in addition to particulates 23 if you did take that exemption, and 24 I believe that is also reflected in 25 AEP's comments.</p>	<p>Page 32</p> <p>1 MR. GAMBLE: On the 2 25-5(a)(2) fossil fuels steam 3 generators that are -- have these 4 opacity monitors, was that intended 5 to be electricity -- electric 6 utilities leads -- steam generators? 7 MR. KIRLIN: I'm sorry, can 8 you repeat that? 9 MR. GAMBLE: Okay. 25-5(a), 10 owners and operators shall install 11 (inaudible) opacity monitors and then 12 (a)(2) says for fossil fuel fired 13 steam generators. Is that intended 14 to be electric utility steam 15 generators? 16 MR. KIRLIN: I would say 17 that -- I mean that's primarily what 18 that is. That is an old federal 19 term that may be defined in our 20 rules elsewhere. That's existing 21 language. Cheryl Bradley is advising 22 -- I guess, the short answer is yes. 23 I believe that is what that is. 24 It's an archaic term. 25 MR. GAMBLE: Okay. Well,</p>
<p>Page 31</p> <p>1 MS. BOTCHLET-SMITH: Okay. 2 Thank you. Ms. Bradley, do you want 3 to address that comment? 4 MS. BRADLEY: Actually my 5 issue relates to the comments 6 submitted by EFO. In the notice I 7 was designated as the recipient of 8 the comments and I have not received 9 comments via electronic media or hard 10 copy. Do you -- sir, do you have a 11 copy of those that we could enter 12 into the record? 13 MR. KINARD: (Inaudible). 14 MS. BRADLEY: Okay. 15 MS. BOTCHLET-SMITH: Thank 16 you. Do we have any one else from 17 the public that wishes to comment 18 today on Chapter 31 move to 19 Subchapter 25? 20 Seeing none, if there are other 21 questions from the Council we can 22 address those? 23 MS. LODES: Are there other 24 questions or concerns from the 25 Council?</p>	<p>Page 33</p> <p>1 my concern was that (a)(3) says that 2 if you've got a 250 Million BTU per 3 hour and does not burn gaseous fuel 4 it doesn't have to put one in, but 5 it has to be gas fueled, so if you 6 had a 200 Million BTU gas fueled 7 that means you don't have to put in 8 an opacity because then this fossil 9 fuel fired steam generator without it 10 saying that it's also electric 11 utility fossil fuel doesn't exclude 12 natural gas in the definitions and 13 rules. So it would pushed right 14 back in and required by this, require 15 an opacity monitor. 16 MR. KIRLIN: That's -- 17 essentially that's -- I mean that's 18 probably correct because the -- like 19 I said these requirements were in two 20 different locations originally and 21 the existing section dealt with a 22 particular segment that like I said 23 didn't have -- didn't have a limit 24 on the size. The number -- I mean 25 the requirement in Subchapter 31 did.</p>

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<p>Sheet 10 Page 34</p> <p>1 And so we just carried that over. 2 (Multiple voices) 3 MS. BRADLEY: Cheryl 4 Bradley. I wanted to step back. We 5 discussed Subchapter 31 probably ad 6 nauseam for everyone. And part of 7 the issue that linking where we are 8 today with where we began, and this 9 terminology for the fossil fuel fired 10 steam generators originated from a 11 federal regulation and in appendix, 12 which I believe is P -- so 40 CFR 13 Part 51 Appendix P and we did not 14 find a clear way to link the current 15 terms that are used in the federal 16 regulations electric generating units 17 with what predated. We don't have a 18 clear and conclusive record for 19 Subchapter 31 but we did find that 20 the terminology and its references 21 were clearly anchored to regulatory 22 language that would have resulted in 23 an action by the state and, yet, 24 those terms are still used in the 25 existing language. And did primarily</p>	<p>Page 36</p> <p>1 Subchapter 25 so we didn't add a 2 definition. 3 MS. LODES: I'm having Jim 4 look, but one question I think where 5 David is going with this and I can 6 kind of understand it, is this -- 7 the way it was previously written was 8 fossil fuel-fired steam generators in 9 accordance with 40 CFR Part 51, 10 Appendix P. Did that give us any 11 kind of exemption? Because right now 12 with the fossil fuel steam generator 13 this goes all the way down in size 14 to no matter how small that steam 15 generator might be and were some of 16 those smaller ones previously exempt 17 from Subchapter 25 that might now be 18 pulled in? That would be my area of 19 concern, that if 40 CFR Part 51 20 Appendix P had an exemption for those 21 smaller ones that we're now getting 22 rid of, I think that's an unintended 23 consequence here. 24 MR. KIRLIN: I'm not aware 25 -- did you --</p>
<p>Page 35</p> <p>1 target electric generators that they 2 refer to as -- by a different name. 3 MR. KIRLIN: I will note 4 that during our changes to Subchapter 5 31, there's a definition we were 6 going to change or remove and in 7 reviewing the old federal regulations 8 we -- I think in Subchapter 31 we 9 intended to change the terms used for 10 the same term as fuel-fired steam 11 generator. And since we found the 12 old federal rule still applied we 13 decided not to change that term but 14 actually did -- we did add the 15 definition to Subchapter 31. The 16 last round, and this may be a little 17 broader than what we targeted. It 18 says it means a furnace or boiler 19 used in the process of burning fossil 20 fuel for the primary purpose of 21 producing a steam by heat transfer. 22 So technically, I think, the electric 23 generating is one of the big ones 24 but it is not exclusive. And we 25 didn't -- we didn't open the entire</p>	<p>Page 37</p> <p>1 MS. LODES: I asked Jim 2 since he's got the -- 3 (Multiple voices) 4 MS. LODES: -- Part 51, 5 Appendix P. 6 MR. KIRLIN: We didn't -- I 7 mean, if that's the case then we 8 need to, you know, change it. I 9 read the -- in accordance with, we 10 did move that to (c). If that's -- 11 I wasn't aware of it. 12 MS. LODES: Well, I guess 13 my concern I guess would be if we're 14 subject -- 15 MR. HAUGHT: Where are we 16 looking for? 17 MS. LODES: Appendix P. 18 MR. HAUGHT: Okay. This is 19 it, but what are we looking for? 20 MS. LODES: Just to see if 21 there is kind of size exemption for 22 fossil fuel-fired steam generators. 23 MR. KIRLIN: Should be -- 24 the definition we actually put 25 Subchapter 31, if we relied on a</p>

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<p>Sheet 11 Page 38</p> <p>1 definition that's -- 2 MS. LODES: Well, I think 3 that -- 4 MR. KIRLIN: -- we actually 5 pulled that from -- 6 MS. LODES: I think 7 Subchapter 31 is fine. 8 MR. KIRLIN: Well -- 9 MS. LODES: And I see where 10 you pulled it out and made it (3) -- 11 (a)(3), so that part makes sense to 12 me. The part that actually doesn't 13 make sense to me now is the way this 14 was written way -- what is now 15 Bullet 2, was written before. It 16 was all written together. And it 17 said, and fossil fuel-fired steam 18 generators in accordance with 40 CFR 19 Part 51 Appendix P; which is hereby 20 incorporated by reference. 21 I'm just wondering if by -- 22 the way we made the bullets and 23 struck that "in accordance with 40 24 CFR Part 51", if we had an 25 unintended consequence of adding in</p>	<p>Page 40</p> <p>1 by reference date to the '98 date. 2 MS. LODES: I agree there. 3 MS. BRADLEY: And I will 4 need to look at our update to 5 Appendix Q. 6 MS. LODES: Okay. But -- 7 but I think if we leave in "in 8 accordance with" that way we could 9 prevent having unintended consequence 10 there, David. Because I see where 11 you're going with that. But the 12 Item 3 is what has always existed. 13 It was just moved out of Subchapter 14 31 and over. 15 MR. GAMBLE: Yeah. 16 (Comments) 17 MS. BOTCHLET-SMITH: I'm 18 sorry. Would you all like a five 19 minute break -- 20 MS. LODES: Yes. 21 MS. BOTCHLET-SMITH: -- to 22 get a chance to read that? 23 MS. LODES: Okay. 24 MS. BOTCHLET-SMITH: Do you 25 want us to adjourn for a few</p>
<p>Page 39</p> <p>1 fossil fuel-fired steam generators 2 that might not have previously been 3 subject. 4 (Comments) 5 MS. LODES: I think that -- 6 that's where, I guess, I have the 7 most fear is that we have an 8 unintended consequence of pulling in 9 the small steam generators. Do we 10 have (inaudible)? 11 MS. BRADLEY: Ms. Lodes, I 12 believe that you're correct. We 13 would need to look at that. 14 MS. LODES: Okay. So can 15 we just leave that in there for now? 16 It's always been there. So instead 17 of striking that part of the rule, 18 can we leave it? 19 MS. BRADLEY: Yes. Provided 20 that we put a "period" after "P" and 21 get rid of "we hereby incorporate by 22 reference". 23 MS. LODES: Okay. 24 MS. BRADLEY: Because we 25 don't want to limit the incorporate</p>	<p>Page 41</p> <p>1 minutes? 2 MS. LODES: Let's -- we'll 3 give you ten. We'll start back up 4 at ten o'clock. 5 (Break) 6 MS. LODES: I'd like to 7 call the meeting back to order, 8 please. 9 Cheryl, I believe there was 10 some discussion off-line if you want 11 to go ahead. 12 MS. BRADLEY: Yes. We 13 discussed the issues that have been 14 raised and discussed the modified 15 recommendation. we believe the 16 concerns that have been brought to 17 our attention would justify carrying 18 the rule over to another Council 19 meeting. 20 MS. LODES: Okay. Thank 21 you. 22 Do we have any additional 23 comments from the Council on that 24 note? 25 MR. BRANECKY: I'd like to</p>

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1 make one other comment.
2 MS. LODES: Okay.
3 MR. BRANECKY: This is just
4 a suggestion. Under 5 -- let's see,
5 (b)(C). This section does not apply
6 to. It says emissions sources that
7 are subject to a standard pursuant to
8 Section 111 of the Clean Air Act,
9 could we be a little more specific
10 in saying opacity standards because
11 there's lots of standards under
12 Section 111. Might be helpful to
13 just --
14 MS. LODES: Well, and that's
15 something that Jim and I were
16 commenting on. Just because you're
17 subject to a nitrogen dioxide
18 standard doesn't mean that you should
19 be exempt from an opacity --
20 MR. BRANECKY: Right. So
21 we should be a little more specific
22 on what type of standard.
23 MS. LODES: Cheryl? Brooks?
24 MS. BRADLEY: I just got
25 the -- excuse me.

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1 MS. LODES: Well, that's
2 more of a note for you guys when
3 you're looking at it.
4 MR. BRANECKY: Yeah. That's
5 right.
6 MS. LODES: Let's make sure
7 that that's clear, just because
8 you're subject to any NSPS this is
9 opacity and is it worded
10 appropriately.
11 MR. KIRLIN: We would -- I
12 mean that's -- I agree that that's a
13 -- sorry.
14 MR. BRANECKY: I mean we're
15 in an opacity regulation but it might
16 be helpful to just be a little more
17 specific.
18 MS. BRADLEY: We feel that
19 that is a valid point. Upon
20 discussion, if in fact, a source had
21 a CEMS for particulate matter, that
22 would likely -- I'm not going to
23 commit DEQ at this point -- but
24 would likely be sufficient and would
25 not be necessary to have a COMS as

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1 well. We will need to look at that
2 and the wording. I don't know that
3 it was our intent to limit it to
4 just specifically opacity but Laura
5 Herron was so kind as to provide me
6 a hard copy of the Appendix P. And
7 most of the language that you see in
8 the rule right now is consistent with
9 what is currently in Appendix P and
10 we likely have an issue with EPA
11 having some contradictory
12 requirements in the new versus older
13 language. So we need to look at
14 that.
15 MS. LODES: Okay. Thank
16 you. Okay. Is there any other
17 questions or comments from the
18 Council?
19 If not, DEQ has recommended
20 that we carry this forward. Do we
21 have an action by the Council?
22 MS. MYERS: I'll make a
23 motion that we carry it forward to
24 the next meeting.
25 MR. GAMBLE: Second.

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1 MS. LODES: I have a motion
2 and a second. Jeanette, would you
3 please call roll.
4 MS. NANCE: Mr. Branecky.
5 MR. BRANECKY: Yes.
6 MS. NANCE: Mr. Clark.
7 MR. CLARK: Yes.
8 MS. NANCE: Mr. Collins.
9 MR. COLLINS: Yes.
10 MS. NANCE: Mr. Gamble.
11 MR. GAMBLE: Yes.
12 MS. NANCE: Mr. Haught.
13 MR. HAUGHT: Yes.
14 MS. NANCE: Ms. Myers.
15 MS. MYERS: Yes.
16 MS. NANCE: Ms. Lodes.
17 MS. LODES: Yes.
18 MS. NANCE: The motion
19 passed.
20 MS. BOTCHLET-SMITH: The
21 next item on the Agenda is Item
22 Number 4B. This OAC 252:100-2
23 Incorporate by Reference and also
24 references Appendix Q, Incorporation
25 by Reference.

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1 Ms. Nancy Marshment will give
2 the staff presentation.
3 MS. MARSHMENT: Good
4 morning. Madam Chair, Members of the
5 Council, ladies and gentlemen, I am
6 Nancy Marshment, Environmental
7 Program Specialist with Air Quality
8 Division.
9 The Department is proposing to
10 update language in Subchapter 2,
11 Incorporation by Reference to reflect
12 the new date of incorporation for
13 Appendix Q. In addition, the
14 Department is proposing to revoke the
15 current Chapter 100, Appendix Q,
16 Incorporation by Reference and adopt
17 a new Appendix Q. This proposal is
18 part of the annual update of Title
19 40 Code of Federal Regulations,
20 Incorporations by Reference in
21 Chapter 100.
22 Today is the first time the
23 staff has presented this proposal to
24 the Council. Changes to Appendix Q
25 have been updated to reflect federal

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1 regulations that have been
2 implemented as of June 1, 2012. The
3 update would also incorporate any
4 amendments to standards currently
5 listed in Appendix Q.
6 Your packet includes a sheet
7 the shows only the changes and
8 additions to the appendix. Notice
9 was published in the Oklahoma
10 Register on June 15, 2012 for these
11 proposed changes. The Notice
12 requested written comments from the
13 public and other interested parties.
14 No comments have been received as of
15 today.
16 Staff requests that the Council
17 postpone this rulemaking to a later
18 Council meeting. There are several
19 additional changes and additions that
20 are pending at the federal level;
21 some of which Oklahoma will want to
22 include when they are final. That's
23 why I'm not going over each one
24 individually.
25 That's it. Thank you.

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1 MS. BOTCHLET-SMITH: Do we
2 have any questions from the Council
3 for Ms. Marshment?
4 Hearing none, any questions
5 from the public?
6 Again, hearing none --
7 MS. LODES: The staff has
8 recommended that we carry this
9 forward. Do I have a motion?
10 MS. MYERS: So moved.
11 MS. LODES: I have a
12 motion. Do I have a second?
13 MR. GAMBLE: Second.
14 MS. LODES: Thank you.
15 Jeanette, would you please call roll.
16 MS. NANCE: Mr. Branecky.
17 MR. BRANECKY: Yes.
18 MS. NANCE: Mr. Clark.
19 MR. CLARK: Yes.
20 MS. NANCE: Mr. Collins.
21 MR. COLLINS: Yes.
22 MS. NANCE: Mr. Gamble.
23 MR. GAMBLE: Yes.
24 MS. NANCE: Mr. Haught.
25 MR. HAUGHT: Yes.

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1 MS. NANCE: Ms. Myers.
2 MS. MYERS: Yes.
3 MS. NANCE: Ms. Lodes.
4 MS. LODES: Yes.
5 MS. NANCE: Motion passed.
6 MS. BOTCHLET-SMITH: Okay.
7 That concludes the hearing portion of
8 today's meeting.
9 (Rulemaking Hearing Concluded)

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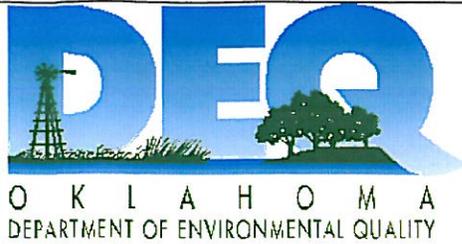
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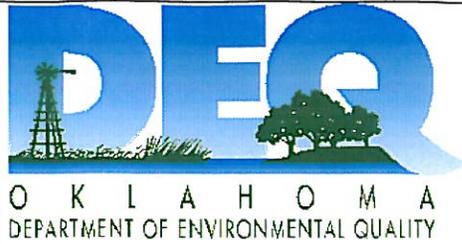
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