

**MINUTES**  
**AIR QUALITY COUNCIL**  
Department of Environmental Quality  
Multipurpose Room

Oct 5 2011

707 North Robinson, Oklahoma City, Oklahoma

**Draft for November 15 EQB**  
**Official after AQC Approval**  
**January 18, 2011**

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. on October 5, 2011 at the DEQ Multipurpose Room, 707 North 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 7, 2010 and on June 10, 2011 to change the date. 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. Mr. Scott Thomas, Manager of the Data and Planning Section of the Air Quality Division, 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. Mr. Thomas 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. Bruce called roll and a 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**

Beverly Botchlet-Smith  
Scott Thomas  
Cheryl Bradley  
Rob Singletary  
Laura Finley  
Madison Miller

**DEQ STAFF PRESENT**

Brooks Kirlin  
Nancy Marshment  
Dawson Lasseter  
Joyce Sheedy

**MEMBERS ABSENT**

Bob Lynch  
Pete White

**OTHERS PRESENT**

Christy Myers, Court Reporter

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

**Approval of Minutes – July 20, 2011 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*

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

**Meeting Schedule for Calendar Year 2012** The schedule discussed was for January 18, April 18, July 18, and October 17 with the April meeting scheduled in Tulsa. Mr. Branecky made the motion to approve that proposal and Mr. Clark made the second.

*See Transcript pages 4 - 5*

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

**OAC 252:100-1 General Provisions**

**OAC 252:100-8 Permits for Part 70 Sources**

Ms. Madison Miller, staff attorney, identified the proposed amendments to Subchapters 1 and 8 and pointed out comments that had been received. She stated that staff's recommendation was for Council to continue the hearing on OAC 252:100-1-3 but forward the proposal for OAC 252:100-8 to the Environmental Quality Board for permanent adoption. Following discussion by Council and public, Ms. Lodes called for a motion.

Mr. Branecky made motion to approve Subchapter 8 as presented and to continue Subchapter 1 to the January 2012 meeting.

*See Transcript pages 11 - 53*

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

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

Mr. Brooks Kirlin, engineer with the Rules and Planning Section, stated that the proposal would amend the requirements in SC 31 and clarify existing language. After a lengthy discussion, Ms. Myers made motion to continue the hearing to Council's January 2012 meeting. Mr. Collins made the second.

*See Transcript pages 54 - 80*

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

### **OAC 252:110. Lead-Based Paint Management**

#### **Subchapter 1. General Provisions [AMENDED]**

#### **Subchapter 5. Incorporation by Reference [AMENDED]**

#### **Subchapter 15. Additional Renovation, Repair and Painting (RRP) Requirements [NEW]**

Ms. Laura Finley, staff attorney, advised that the Department's proposal would amend OAC 252:110, Lead-Based Paint Management, to add a new Subchapter 15. Ms. Finley explained that the proposed rule would establish state requirements that are consistent with EPA and affect contractors who perform renovation, repair, and painting projects in homes, child-care facilities and schools built before 1978. The rule would also establish fees for RRP firm certifications and for accreditations of training providers. Hearing no discussion, Ms. Lodes called for a motion. Mr. Branecky moved to pass the rule as presented and Mr. Haught made the second.

*See Transcript pages 81- 86*

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

### **OAC 252:100-2. Incorporation By Reference [AMENDED]**

#### **Appendix Q. Incorporation by Reference [REVOKED]**

#### **Appendix Q. Incorporation by Reference[NEW]**

Ms. Nancy Marshment advised that the proposal would update Subchapter 2 to clarify language and Appendix Q to incorporate by reference the latest changes to EPA regulations. Ms. Marshment identified the changes included in the proposal. Staff recommendation was to forward to the Environmental Quality Board for permanent adoption. Ms. Lodes called for a motion. Mr. Branecky moved approval as presented.

*See Transcript pages 87 - 96*

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

**Division Director's Report** - Ms. Beverly Botchlet-Smith, Air Quality Division Assistant Director, related that Mr. Terrill was at the NAACA meeting in Cleveland. She provided division updates and fielded comments regarding ozone standards and legislative funding.

**New Business** – None

**Adjournment** – Ms. Lodes adjourned the meeting adjourned at 11:00 a.m.

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



# Myers Reporting

<p>Sheet 2 Page 5</p> <p>1 MS. BRUCE: Jim Haught. 2 MR. HAUGHT: Yes. 3 MS. BRUCE: Sharon Myers. 4 MS. MYERS: Yes. 5 MS. BRUCE: David 6 Branecky. 7 MR. BRANECKY: Yes. 8 MS. BRUCE: Laura Lodes. 9 MS. LODES: Yes. 10 MS. BRUCE: Motion passed. 11 MS. LODES: Thank you. 12 The next item on today's Agenda is 13 the meeting schedule for the 14 calendar year 2012. I have 15 proposed meeting dates of January 16 18th, Oklahoma City; April 18th, in 17 Tulsa; July 18th in Oklahoma City; 18 and October 17th in Oklahoma City. 19 Do we have any comments, 20 questions, suggestions on the said 21 meeting dates? 22 (Inaudible conversations) 23 MS. LODES: Sharon, do you 24 have any comments or suggestions 25 for the meeting dates?</p>	<p>Page 7</p> <p>1 will you please call roll. 2 MS. BRUCE: Broken Bow is 3 lovely this time of year, I might 4 add. 5 MS. LODES: I agree 6 wholehearted. 7 MS. BRUCE: Gary Collins. 8 MR. COLLINS: Yes. 9 MS. BRUCE: Montelle 10 Clark. 11 MR. CLARK: Yes. 12 MS. BRUCE: Jim Haught. 13 MR. HAUGHT: Yes. 14 MS. BRUCE: Sharon Myers. 15 MS. MYERS: I guess. Yes. 16 MS. BRUCE: David 17 Branecky. 18 MR. BRANECKY: Yes. 19 MS. BRUCE: Laura Lodes. 20 MS. LODES: Yes. 21 MS. BRUCE: Motion passed. 22 MS. LODES: And, you know, 23 if the economy suddenly gets a 24 whole lot better we could always, 25 during the year, make a Council</p>
<p>Page 6</p> <p>1 MS. MYERS: Oh, I'm sure 2 it won't pass but Broken Bow sure 3 would be nice in October. It's 4 just a thought. 5 MS. LODES: I agree. I 6 know we haven't done it in several 7 years because of budget 8 constraints. 9 MS. MYERS: Yeah. 10 MS. LODES: So -- 11 MS. MYERS: I'm sure that 12 there probably are still budget 13 constraints. 14 MS. LODES: Okay. Any 15 other thoughts from anybody else? 16 I need a motion to approve 17 the minutes as proposed by the DEQ 18 or -- for the -- motion to approve 19 the dates as proposed by the DEQ. 20 MR. BRANECKY: So moved. 21 MS. LODES: Do I have a 22 second? 23 MR. CLARK: I'll second. 24 MS. LODES: Thank you. I 25 have a motion and a second. Myrna,</p>	<p>Page 8</p> <p>1 change of the venue. 2 MS. MYERS: Great idea. 3 MS. LODES: We have done 4 that in the past. 5 MS. MYERS: That's a great 6 idea. 7 MS. LODES: I realize 8 budgets would have to get far 9 better. 10 MS. BOTCHLET-SMITH: You 11 know, we really like going to 12 Broken Bow but we just didn't get 13 the same public participation. 14 MS. LODES: I know. 15 MS. BOTCHLET-SMITH: That's 16 important, Laura. 17 MS. LODES: I realize it's 18 important. I realize it's also 19 nice for the people down in the 20 southeast part of the state to have 21 us down there, but we don't have 22 the same volume of people who 23 attend. 24 MS. BOTCHLET-SMITH: We 25 can always consider it for the</p>

# Myers Reporting

<p>Sheet 3 Page 9</p> <p>1 future. 2 MS. LODES: Ponca City was 3 nice. 4 MS. BOTCHLET-SMITH: Yes, 5 it was. 6 MS. LODES: Okay. We are 7 now to the public rulemaking 8 portion of this. 9 MR. THOMAS: Good morning. 10 I'm Scott Thomas, Manager of the 11 Data and Planning Section of the 12 Air Quality Division. As such, for 13 the first time I will serve as the 14 Protocol Officer for today's 15 hearing. 16 The hearings will be convened 17 by the Air Quality Council in 18 compliance with the Oklahoma 19 Administrative Procedures Act in 20 Title 40 of the Code of Federal 21 Regulations, Part 51, as well as 22 the authority of Title 27A of the 23 Oklahoma Statutes, Section 2-2-201, 24 Sections 2-5-101 through 2-5-118. 25 Notice of the October 5th,</p>	<p>Page 11</p> <p>1 with what's marked as Agenda 5A on 2 the Hearing Agenda. That will be 3 OAC 252:100-1 General Provisions 4 and OAC 252:100-8 Permits for Part 5 70 Sources. 6 Madison Miller, of our legal 7 staff, will make the staff 8 presentation. 9 MS. MILLER: Madam Chair, 10 Members of the Council, ladies and 11 gentlemen, I am Madison Miller. I 12 am an environmental attorney with 13 the Air Quality Division here at 14 DEQ. The Department proposes to 15 amend Subchapter, 1 General 16 Provisions; and Subchapter 8, 17 Permits for Part 70 Sources. And I 18 will be discussing the proposed 19 amendments to these subchapters. 20 To begin, on July 20, 2011, 21 EPA promulgated in the Federal 22 Register, at 76 FR 43490, a 23 modification to their greenhouse 24 gas (GHG) tailoring rule. This 25 modification deferred for 3 years</p>
<p>Page 10</p> <p>1 2011 hearings were advertised in 2 the Oklahoma Register for the 3 purpose of receiving comments 4 pertaining to the proposed OAC 5 Title 252 Chapter 100 rules as 6 listed on the Agenda and will be 7 entered into each record along with 8 the Oklahoma Register filing. 9 Notice of the meeting was 10 filed with the Secretary of State 11 on December 7, 2010 and June 10th, 12 2011 to change the date. The 13 Agenda was duly posted 24 hours 14 prior to the meeting at this 15 facility and at the DEQ. 16 If you wish to make a 17 statement, it is very important 18 that you complete the form at the 19 registration table and then you 20 will be called upon at the 21 appropriate time. Audience members 22 please come to the podium for your 23 comments and please state your 24 name. 25 At this time we'll proceed</p>	<p>Page 12</p> <p>1 the Part 70 and PSD permitting 2 requirements for biogenic carbon 3 dioxide emissions from bioenergy 4 and other biogenic stationary 5 sources. The Department proposes 6 to modify the definitions in 7 Subchapters 1 and 8 necessary to 8 achieve EPA's deferral and prevent 9 the State permitting rule from 10 being more stringent than the 11 corresponding federal rule with 12 respect to greenhouse gases. 13 The proposed amendments are 14 to the definition of "carbon 15 dioxide equivalent" emissions or 16 "CO2e" in OAC 252:100-1-3 and the 17 definitions of "subject to 18 regulation" in both 252:100-8-2 and 19 252:100-8-31, which respectively, 20 are the definitions applicable to 21 the Title V and PSD programs. This 22 is a substantive change. 23 The Department proposes to 24 add language to the requirements 25 for construction and operating</p>

# Myers Reporting

<p>Sheet 4 Page 13</p> <p>1 permits for Part 70 sources in OAC 2 252:100-8-4(a)(1), which would 3 clarify that such construction 4 permits shall be obtained under the 5 requirements of Part 5, Subchapter 6 8, Permits for Part 70 Sources, and 7 make clear that they shall not be 8 obtained under Subchapter 7, 9 Permits for Minor Facilities. This 10 is not a substantive change.</p> <p>11 Additionally, the Department 12 proposes to set a schedule for a 13 timely application submittal for 14 sources that become subject to the 15 Part 70 operating permit program 16 without any physical or operational 17 change or any increase in emissions 18 of air pollutants subject to 19 regulation in OAC 20 252:100-8-4(b)(5). This deadline 21 is already part of the federal 22 regulation at 40 CFR 70.5(a)(1)(i), 23 but the Department had not 24 perceived a need for such a 25 deadline until EPA recently</p>	<p>Page 15</p> <p>1 final versions of the rules 2 approved by the Council and adopted 3 by the Environmental Quality Board, 4 but arose during the publication 5 process. The corrections are as 6 follows.</p> <p>7 In the definition of "carbon 8 dioxide equivalent emissions" or 9 "CO2e" in OAC 252:100-1-3, in 10 Paragraph (B) of the definition of 11 "subject to regulation" in 12 252:100-8-2, and in Paragraph 13 (B)(1) of the definition of 14 "subject to regulation" in 15 252:100-8-31 where dashes were 16 erroneously converted to the letter 17 "B".</p> <p>18 In the definitions of 19 "baseline area" in 252:100-8-31 and 20 in the definition of "significant" 21 in 252:100-8-33(c)(1) where in 22 several instances the "mu" in 23 micrograms per cubic meter was 24 erroneously converted to a capital 25 "F". And in OAC 252:100-8-51.1(c)</p>
<p>Page 14</p> <p>1 determined that greenhouse gases is 2 a pollutant subject to regulation. 3 This is a substantive change.</p> <p>4 While revising OAC 5 252:100-8-4(b)(5), staff realized 6 there is some difficulty 7 interpreting when a Part 70 8 operating permit application is 9 timely submitted, since the term 10 "commencement of operation" is not 11 defined in Chapter 100, yet the 12 term is used to determine timely 13 submittal of Part 70 operating 14 permit applications. Therefore, 15 the Department is proposing to add 16 a definition of "commencement of 17 operation" or "commencing 18 operation" to Subchapter 1. This 19 is a substantive change.</p> <p>20 Due to errors in the Oklahoma 21 Register published on June 15, 2011 22 at 28 OK 1079, the Department is 23 proposing a series of corrections 24 to Subchapters 1 and 8. 25 These errors were not in the</p>	<p>Page 16</p> <p>1 where the date of incorporation by 2 reference was published as July 1, 3 2011 when it should have been July 4 1, 2010.</p> <p>5 Finally, the Department 6 proposes to make other 7 non-substantive changes in the 8 sections of the rules that are 9 being revised including, in OAC 10 252:100-1-3, definitions, changing 11 PM-10 to PM subscript 10 in the 12 definitions of "PM10 emissions" and 13 "PM10". And changing PM-2.5 to PM 14 subscript 2.5 in the definition of 15 "PM-2.5". These changes are for 16 format consistency in OAC 252:100.</p> <p>17 Changing the name of 18 Subchapter 8 to "Permits for Part 19 70 Sources and Major New Source 20 Review (NSR) Sources" to make clear 21 from the title that Subchapter 8 22 contains not only the requirements 23 of the Part 70 operating permit 24 program, but also the requirements 25 of the PSD and Nonattainment NSR</p>

# Myers Reporting

<p>Sheet 5 Page 17</p> <p>1 permitting programs. 2 In OAC 252:100-8-4(b)(1) 3 replacing section with paragraph 4 when referring to 8-4(b)(1) because 5 (1) is a paragraph, not a section. 6 In OAC 252:100-8-4(b)(3) 7 replacing "below" with "in OAC 8 252:100-8-4(b)" for clarity. 9 And in OAC 252:100-8-4(b)(5) 10 replacing "following the effective 11 date" with "on or after March 6, 12 1996". It was brought to our 13 attention that the current language 14 is vague as to what the effective 15 date is. The Part 70 permit 16 program was effective as of March 17 6, 1996, and this revision would 18 clarify the effective date being 19 referred to in OAC 20 252:100-8-4(b)(5). 21 Notice of the proposed 22 permanent rule changes was 23 published in the Oklahoma Register 24 on September 1, 2011. The notice 25 requested written comments from the</p>	<p>Page 19</p> <p>1 Specifically, both parties 2 express concern with the provision 3 in Subchapter 7, at OAC 4 252:100-7-18(a)(1), which states 5 that operating permit applications 6 for minor sources must be submitted 7 within 60 days of commencement of 8 operation. 9 The parties commented that in 10 the oil and gas production, tests 11 must be conducted to determine the 12 production capacity of a well after 13 installation, which could take 14 longer than the time allotted by 15 the rules to submit permit 16 application. However, under the 17 definition proposed, operation of a 18 well is commenced once installation 19 is complete because any activity 20 with potential to emit any 21 regulated air pollutant would begin 22 at that point. Therefore, the 23 parties express that it would take 24 more than 60 days to prepare an 25 operating permit application if</p>
<p>Page 18</p> <p>1 public and other interested 2 parties. Written comments were 3 received on September 28, 2011 from 4 the US Environmental Protection 5 Agency and from Ms. Angie 6 Burkhalter, Vice-President of the 7 Regulatory Affairs with Oklahoma 8 Independent Petroleum Association. 9 These comments were received in 10 enough time for staff to prepare a 11 written response, which has been 12 provided to you. 13 Additionally, written comments 14 were received on October 3, 2011 15 from Mr. Jimmie Hammontree, Manager 16 of Regulatory Affairs for the 17 Northern Division of Chesapeake 18 Energy Corporation. Staff was 19 unable to timely prepare a written 20 response to Chesapeake's comments. 21 However, Chesapeake's comments are 22 substantially similar to those of 23 OIPA, and therefore staff's 24 response to OIPA's comments appears 25 to satisfy Chesapeake's, as well.</p>	<p>Page 20</p> <p>1 commencement of operation is 2 defined as "any activity." 3 In response, DEQ staff is 4 considering a revision to OAC 5 252:100-7-18(a)(1) that would 6 increase the 60-day period to 120 7 days. DEQ staff intends to ask the 8 Council to continue the hearing on 9 the proposed changes to OAC 10 252:100-1-3 so that the proposed 11 revisions to Subchapters 1 and 7 12 could occur at the same time. 13 Further consideration will be 14 given to the definition of 15 "commencement of operation" or 16 "commencing operation" taking into 17 account comments received prior to 18 and at the Council meeting. 19 Although this is the first 20 time these amendments will come 21 before the Council, staff requests 22 that the proposed amendments to 23 Subchapter 8 be forwarded to the 24 Environmental Quality Board with 25 the recommendation that they be</p>

# Myers Reporting

<p>Sheet 6 Page 21</p> <p>1 adopted as permanent rule changes. 2 Staff asks that the Council 3 continue the hearing on OAC 4 252:100-1-3. The addition of the 5 definition of "commencement of 6 operation" or "commencing 7 operation" was not included in the 8 notice for the October 5th, 2011 9 Council meeting. Continuing the 10 hearing on Subchapter 1 would allow 11 the revision to the definition of 12 "carbon dioxide equivalent 13 emissions" or "CO2e" to be 14 effective at the same time the CO2 15 deferral revisions in Subchapter 8 16 become effective, while allowing 17 more time for public comment on the 18 new definition of "commencement of 19 operation" or "commencing 20 operation". 21 MR. THOMAS: At this time 22 the staff will take questions and 23 comments from the Council. 24 MR. HAUGHT: So did I hear 25 her recommend to continue all that</p>	<p>Page 23</p> <p>1 What's the harm in carrying both of 2 them forward to make sure that 3 everything is smooth and matches on 4 the definitions? 5 MS. MYERS: Will 6 Subchapter 8 go before the Board in 7 February? 8 MS. BOTCHLET-SMITH: That's 9 the plan. 10 MS. LODES: It won't go 11 until February? 12 MS. BOTCHLET-SMITH: 13 February. 14 MS. LODES: Okay. That's 15 what I was thinking that none of 16 this went before the Board until 17 February. Correct? 18 MS. BOTCHLET-SMITH: That's 19 correct. 20 MS. BRADLEY: No, we were 21 intending that in -- 22 bran: November? 23 MS. BRADLEY: November. 24 MS. LODES: Okay. 25 MS. BOTCHLET-SMITH: Are</p>
<p>Page 22</p> <p>1 is proposed under this or were 2 there pieces of it that -- 3 MS. MILLER: We recommend 4 to continue Subchapter 1, but to 5 pass Subchapter 8. 6 MR. HAUGHT: Okay. 7 bran: But doesn't 8 Subchapter 8 contain "commencement 9 of operations" which is defined in 10 Subchapter 1? 11 MS. MILLER: Correct, but 12 it always has contained that term. 13 MS. LODES: Yeah. It's 14 always -- I don't think there is a 15 change where that is referenced in 16 here. That's what I was trying to 17 look through because I hadn't 18 looked at this as splitting the two 19 apart. 20 MS. MYERS: What harm is 21 there in continuing 8 since they're 22 presented together at this time and 23 there is not a big rush to get it 24 passed. Because it won't go to the 25 Board before February anyway.</p>	<p>Page 24</p> <p>1 we going to send Subchapter 8 in 2 November? 3 MS. BRADLEY: Subchapter 8 4 in November. 5 MS. BOTCHLET-SMITH: I'm 6 sorry. 7 MS. BRADLEY: Subchapter 8 8 does not include a fee change, so 9 therefore it would not go in -- it 10 wouldn't need to be delayed until 11 February. 12 And the advantage in 13 splitting them up is that we could 14 get some of the work out of the way 15 and in process rather than 16 (inaudible). 17 MS. LODES: Well, I have a 18 question on Subchapter 8 to clarify 19 -- to clarify Subchapter 8. 20 Subchapter 8 has got the part where 21 we've got about newly regulated 22 sources which has when sources that 23 are not currently subject to Title 24 V, but would be subject because of 25 the Tailoring Rule, have to file</p>

# Myers Reporting

<p>Sheet 7 Page 25</p> <p>1 their Title V operating permit, 2 which is next July. Correct? 3 MS. BOTCHLET-SMITH: What 4 section are you referring to? 5 MS. LODES: I'm looking at 6 -- this is -- it's on Page 15. 7 It's 100-8-4(b)(5) where it's got 8 the newly regulated sources. 9 MS. BRADLEY: Yes. 10 MS. LODES: My concern -- 11 my only concern with passing this 12 sooner than later is should we do 13 this even more quickly because 14 right now those sources became 15 subject to Title V permitting as of 16 July 1, 2010. The way our current 17 rules read, 180 days from that is 18 what? December -- would be January 19 or December of this -- what, six 20 months? January? So do we need to 21 do this part of Subchapter 8 more 22 quickly, so we don't end up with an 23 issue with sources looking like 24 they've got non-compliance because 25 we've got a gap? Does that make</p>	<p>Page 27</p> <p>1 clarification. 2 MS. LODES: Okay. That 3 makes sense. I mean I don't have a 4 problem with carrying it forward, 5 my only concern would be do we have 6 people that look like they're out 7 of compliance if they don't file a 8 Title V permit sooner than later. 9 I don't, you know, think that 10 anybody wants to file (inaudible). 11 MS. MYERS: I don't -- I 12 don't know. Cheryl, did you all 13 have a chance to do anything with 14 definitions? 15 MS. BRADLEY: Yes, we 16 have. Joyce can provide a summary 17 of what we -- what she found in her 18 research in definitions. 19 DR. SHEEDY: I have found 20 in the EPA regulations in several 21 of their programs the definition of 22 fossil fuel. And basically it is 23 natural gas, coal, and petroleum 24 and the products derived from those 25 things. And we can put a</p>
<p>Page 26</p> <p>1 sense? 2 MS. MYERS: One of my 3 other concerns about Subchapter 8 4 -- sorry. I talked to Cheryl 5 Bradley on Friday on it. I did not 6 get to send an email on my 7 concerns. 8 MS. LODES: Okay. 9 MS. MYERS: But in 10 Subchapter 8 when it's getting into 11 the description of how greenhouse 12 gases are going to be calculated 13 for the CO2 equivalent -- 14 MS. LODES: Uh-huh. 15 MS. MYERS: -- it's using 16 terms such as non-fossilized fuels 17 and no where did I find definitions 18 for what -- other than this one 19 spot, for -- I didn't find a 20 definition for what's really a 21 fossil fuel versus a non-fossilized 22 fuel. 23 MS. BRADLEY: Okay. 24 MS. MYERS: And I have 25 some concerns about that for</p>	<p>Page 28</p> <p>1 definition in our Subchapter 1, 2 probably, to define fossil fuel if 3 that would help. As a matter of 4 fact, I've been working on it. 5 MS. MYERS: Well, I think 6 for clarification it would help -- 7 DR. SHEEDY: Uh-huh. 8 MS. MYERS: -- to have it 9 with the rule where it's going to 10 be -- explain -- 11 DR. SHEEDY: Yeah. And 12 non-fossil fuel would be everything 13 else. 14 MS. LODES: I would like 15 to see that added to Subchapter 1 16 and I know, Sharon, you had 17 mentioned that to me. I think that 18 would be -- help with 19 clarifications -- 20 DR. SHEEDY: Okay. 21 MS. LODES: -- since we're 22 dealing with so many changes on the 23 federal level. 24 DR. SHEEDY: Right. 25 MS. MYERS: And the other</p>

# Myers Reporting

Sheet 8 Page 29

1 question, and Laura, you can  
2 address this one. On the schedule  
3 for filing an operating permit on a  
4 facility that is phased  
5 construction, it may have one  
6 portion of it operating prior to  
7 the rest of it coming up, having to  
8 file an operating permit and then  
9 repeatedly filing operating permits  
10 as you're going along because  
11 that's a waste of time.  
12 MS. LODES: Yeah. That  
13 would be the Subchapter 1  
14 definition of commencement of  
15 construction which I totally  
16 disagree with how it's written.  
17 Because we would end up with more  
18 work on the companies, the DEQ's,  
19 and everybody's side for naught as  
20 far as I can see. Because you  
21 would be filing a permit  
22 application as soon as you started,  
23 say, the first source, but when you  
24 have a large project that may take  
25 two years to construct, lots of

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1 times the DEQ -- I know the  
2 permitting group will sit on those  
3 permit applications until you  
4 finish construction. So what real  
5 value do we have of filing an  
6 application sooner, that's going to  
7 sit -- staff's going to look at it  
8 and spend and time resources  
9 looking at it and then the company  
10 is going to have to keep doing  
11 updates as the construction process  
12 goes along.  
13 DR. SHEEDY: I would --  
14 MS. MYERS: And that's  
15 also mentioned in Subchapter 8,  
16 under newly regulated sources.  
17 MS. LODES: But that --  
18 this refers back to a definition of  
19 commencement of operation, which we  
20 have earlier in the chapter.  
21 MS. MYERS: Right.  
22 MS. LODES: So it just  
23 stays vague if we don't do  
24 Subchapter 1 right now.  
25 MS. MYERS: Yeah.

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1 DR. SHEEDY: Yeah. We had  
2 -- we had sort of a dream that we  
3 could have one definition for  
4 commencement of operations.  
5 Whether that will work out for  
6 major sources, and minor sources,  
7 and the various kinds of sources  
8 that we have to deal with, I'm not  
9 sure. It's still a work in process  
10 and we definitely need to hear what  
11 we're hearing. We don't want to do  
12 something that would just make more  
13 work for you and for us.  
14 MS. LODES: And I  
15 appreciate that. But that's my  
16 biggest concern, by changing the  
17 definition in Subchapter 1 for  
18 commencement of operation -- and I  
19 know that it's ambiguous at this  
20 time and we've had discussions with  
21 Compliance Enforcement as to what  
22 is. And they've tried to say  
23 people should have filed when they  
24 did the first one, and then we come  
25 back with a disagreement. No. It

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1 says commence normal operations.  
2 What's normal operation in the  
3 permit? And I realize there has  
4 been a lot of confusion for a long  
5 time on what --  
6 DR. SHEEDY: Yes.  
7 MS. LODES: -- when is the  
8 permit due. And I would like to  
9 see a good definition. I just  
10 don't like this definition.  
11 DR. SHEEDY: No that's --  
12 that definition wouldn't take care  
13 of all the various aspects of --  
14 for the different sectors.  
15 MS. LODES: Correct.  
16 DR. SHEEDY: It wouldn't  
17 work for everything. And whether  
18 or not we could have one that would  
19 work for everything is still  
20 something we're investigating. It  
21 would be nice to do that.  
22 MS. LODES: Yeah. I mean  
23 the EPA definition of commencement  
24 of construction is a continuous  
25 program of construction but doesn't

# Myers Reporting

Sheet 9 Page 33

1 show a break. So --  
2 DR. SHEEDY: And ours is  
3 as well. I mean --  
4 MS. LODES: Right. And so  
5 this commencement of operation,  
6 you're still meeting the definition  
7 of commencement of construction and  
8 now we're also meeting the  
9 definition of commencement of  
10 operation --  
11 DR. SHEEDY: Yeah. So  
12 you're still under your  
13 construction permit because you  
14 haven't had an 18 month break  
15 without getting an extension.  
16 MS. LODES: Correct.  
17 DR. SHEEDY: So, yeah. So  
18 we're still working on that. And  
19 as I said, we would love to have  
20 comments from the industry on that.  
21 MS. LODES: Okay. That's  
22 my final comment on Part 1. But  
23 back to Part 8 --  
24 DR. SHEEDY: The way our  
25 -- the way the process works, if we

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1 pass Subchapter 8 this time and we  
2 took it to the Board in November it  
3 still wouldn't be effective until  
4 next July because it's not an  
5 emergency rule.  
6 MS. LODES: Well, that was  
7 my question which I really didn't  
8 think of, I'm sorry, the other day  
9 when we had our pre-meeting, as  
10 whether or not this really actually  
11 -- we needed to change this to an  
12 emergency rulemaking. Because  
13 we're going to run out on the date  
14 and I don't think we can do that at  
15 this point, can we?  
16 MS. BOTCHLET-SMITH: We  
17 didn't Notice this as an emergency  
18 rule.  
19 MS. LODES: So we can't do  
20 that right now, can we?  
21 MS. BOTCHLET-SMITH: We  
22 would have to Notice it as such for  
23 the January meeting.  
24 Cheryl, have you looked into  
25 that?

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1 MR. SINGLETARY: You  
2 actually don't have to Notice an  
3 emergency rule.  
4 MS. BOTCHLET-SMITH: We  
5 don't?  
6 DR. SHEEDY: That's got  
7 some different rules.  
8 MR. SINGLETARY: Thank  
9 you. A while back --  
10 MS. BOTCHLET-SMITH: Aren't  
11 we glad when Rob is here.  
12 MR. SINGLETARY: Right. A  
13 while back we -- Phillip and I  
14 actually looked at the issue that  
15 Laura -- the Chair is bringing up  
16 and it's been a while. But my  
17 recollection is that we came to the  
18 conclusion that because some of  
19 these sources or most of these  
20 sources are already going to be  
21 regulated, they're not going to  
22 fall under that definition of newly  
23 regulated. And therefore, we could  
24 default to the EPA's 12-month  
25 requirement before they have to

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1 have their Title V permit in.  
2 It's been a long time since  
3 we looked at it, but that was the  
4 conclusion that we came to.  
5 MS. LODES: And that's  
6 most of what I've seen because  
7 we've been helping a lot of our  
8 clients go through and review their  
9 facilities. There are some types  
10 of sources that we're seeing  
11 trigger, that never otherwise  
12 trigger amine unit. Natural gas  
13 processing facilities are one  
14 because they're stripping the --  
15 the purpose of the amine unit lots  
16 of times is to strip the CO2 out of  
17 the natural gas line and so you  
18 actually have very low VOC's and  
19 probably not even that high H2S  
20 conversion to SO2 but what we're  
21 seeing is a lot of CO2, because  
22 that's the whole purposes is to  
23 strip the CO2 out.  
24 And I know for one of our  
25 companies we did a -- we surveyed

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1 across the country for them, and  
2 they had about seven or eight  
3 facilities nationwide. But there's  
4 going to be some here in Oklahoma  
5 that will meet this newly regulated  
6 because they've never -- there is  
7 nothing that would trigger them to  
8 get a Title V other than CO2,  
9 because of the particular sources.  
10 And those are the sources that I'm  
11 concerned about right here. And  
12 it's going to be a handful of  
13 sources across the state. I bet  
14 it's less than ten.

15 MR. SINGLETARY: Well when  
16 we looked at it, I don't know for  
17 sure that we looked at that  
18 situation specifically.

19 MS. LODES: I didn't think  
20 about it last year when we were  
21 passing this because I hadn't done  
22 the review of emission sources yet.

23 MR. SINGLETARY: This is  
24 already going to be a minor source  
25 that's got a permit, right?

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1 MS. LODES: Most of them  
2 will probably have minor source  
3 permits.

4 MR. FIELDER: Well, I  
5 think part of that interpretation  
6 will be that you're not regulated  
7 because you have a permit, you're  
8 regulated because there is an  
9 applicable regulation that affects  
10 you. And I think that there are  
11 several regulations that still  
12 apply to them under our rules.

13 MS. LODES: Correct.

14 MR. FIELDER: so it's not  
15 that you have to have a permit to  
16 be regulated.

17 MS. LODES: They're not  
18 new -- they're newly regulated  
19 under the Title V --

20 MR. FIELDER: So, they are  
21 not newly regulated, they are  
22 currently regulated under different  
23 aspects of our rules.

24 MS. LODES: Okay.

25 MR. FIELDER: So I think

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1 there's some flexibility that we  
2 can take under that, but I don't  
3 know what the process would be for  
4 that.

5 MS. LODES: Okay. And I  
6 don't have any problem carrying  
7 Subchapter 8 forward. I just  
8 wanted to make sure we were not  
9 going to get ourselves in a  
10 quandary with this handful of  
11 sources that we're probably going  
12 to see across the state, who are  
13 not currently subject to the Title  
14 V permitting program and are  
15 probably only subject to a minor  
16 sources permit that are going to  
17 have to file for Title V operating  
18 permits.

19 And if we don't -- I mean --  
20 like I said I don't have a problem  
21 carrying this forward one way or  
22 the other. I just want to make  
23 sure we're clear on that and we're  
24 not running into an enforcement  
25 issue where we're going to end up

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1 in front of Rob and Kendall sitting  
2 here discussing when we should have  
3 filed our Title V permit.

4 MR. SINGLETARY: I think  
5 we feel comfortable with a 12-month  
6 deadline.

7 MS. LODES: Okay.

8 MS. MYERS: So if that's  
9 the case then we can carry it  
10 forward.

11 MS. LODES: Correct.  
12 Okay. What other questions do we  
13 have from the Council on this?

14 MR. HAUGHT: Well, I have  
15 a question. I mean, you've asked  
16 for comments on the definition of  
17 the commencement of operation. How  
18 are we going to get to that  
19 definition? I mean what's the -- I  
20 don't want to show up next time and  
21 have a lot of different things  
22 floating out there. We're going to  
23 need to -- we need to pass this in  
24 January -- at the January meeting  
25 so it can get to the Board in

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1 February.  
2 MS. BOTCHLET-SMITH: Are  
3 you in a rush on that, Cheryl?  
4 MR. BRADLEY: (Shakes head  
5 in negative).  
6 MS. BOTCHLET-SMITH: I  
7 think what would be helpful for us  
8 is to get as many comments today on  
9 that commencement of operation so  
10 that we can refine the definition  
11 and try to bring something that  
12 would be acceptable to the Council,  
13 to the public comment, back in  
14 January and hopefully be able to go  
15 ahead and pass that at the next  
16 Board meeting in February.  
17 MS. LODES: I do think  
18 Subchapter 8 needs to be passed in  
19 January, correct?  
20 MS. BOTCHLET-SMITH: When  
21 you were saying carry it forward,  
22 did you mean continue it or --  
23 MS. LODES: Well, or --  
24 MS. MYERS: Pass it.  
25 MS. BOTCHLET-SMITH: --

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1 did you mean to pass it?  
2 MS. LODES: Okay. I think  
3 you meant continue it, correct?  
4 MS. BOTCHLET-SMITH: Yes.  
5 MS. MYERS: Continue both  
6 of them until January.  
7 MS. LODES: Continue both  
8 until January. But I think  
9 Subchapter 8 --  
10 MS. BOTCHLET-SMITH: Okay.  
11 But what I was understanding Jim's  
12 question was is how we're going to  
13 get to what makes a good definition  
14 of commencement of operation.  
15 DR. SHEEDY: To -- I mean can  
16 people give us a definitions --  
17 send it to us even after the close  
18 of a comment period? I mean it  
19 doesn't have to be an official  
20 comment, does it, in order for us  
21 to look at it as we're crafting a  
22 definition for the next rulemaking?  
23 MS. BOTCHLET-SMITH: That  
24 would be similar to some of the  
25 workgroups that we've done in the

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1 past for us to take those comments.  
2 MR. SINGLETARY: When they  
3 could also be just considered  
4 public comment that we would take  
5 into account. But as far as the  
6 time frame with getting Subchapter  
7 1 passed, there are portions to  
8 carbon dioxide equivalent  
9 definition that we need to make  
10 sure is passed at least at the next  
11 Council meeting so it can go to the  
12 Board and be effective by July.  
13 DR. SHEEDY: Yeah. It  
14 needs to be effective with the rest  
15 of the (inaudible).  
16 MR. HAUGHT: That was my  
17 concern. I didn't want parts of it  
18 to get held up because of this  
19 commencement of operation  
20 definition. And if that's going to  
21 be an integral part of what we will  
22 need to pass in January, I'd like  
23 to make sure we get that work done  
24 -- out, so that when this next  
25 meeting in January is Noticed and

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1 those proposed rules -- those  
2 proposed changes to this rule be  
3 updated changes are made public  
4 that it would have been a product  
5 that's already had some input and  
6 hopefully be close to where we're  
7 going to end up --  
8 MR. SINGLETARY: Yes,  
9 could be --  
10 MR. BRANECKY: -- and at  
11 that point we could act on it in  
12 January.  
13 MR. SINGLETARY: Well, and  
14 keeping in mind that it is January  
15 and we have had -- had had trouble  
16 --  
17 MR. HAUGHT: That's true.  
18 MR. BRANECKY: -- meeting  
19 in the past in January because of  
20 weather.  
21 MS. LODES: Correct.  
22 MR. SINGLETARY: One thing  
23 to keep in mind is that if we do  
24 pass this portion -- if we break it  
25 a part and you guys do decide to

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<p>Sheet 12 Page 45</p> <p>1 recommend passage of the CO2 2 equivalent emissions definition, we 3 wouldn't be able to reopen the 4 definition section for passage for 5 another year, so it would be 6 delayed an entire year before we 7 could make commencement of 8 operation definition in the rules. 9 DR. SHEEDY: Yeah. So how 10 important is that? 11 MR. HAUGHT: What was the 12 time frame we were looking at? 13 Because what we're trying to do is 14 make some changes to Subchapter 8 15 and 7 simultaneously so you could 16 address the major and minor sources 17 together. 18 DR. SHEEDY: Yeah. 19 MR. HAUGHT: And that's 20 the common thread that we're 21 looking at. Between them is that 22 commencement, so when would that 23 happen that we would open 7 and -- 24 DR. SHEEDY: We were 25 planning to open it probably in</p>	<p>Page 47</p> <p>1 consider the proposal for 2 Subchapter 7. The reason we did a 3 recommendation for Subchapter 8 is 4 to break some of the rules out of 5 Subchapter 8 because it wasn't a 6 change that was dependent upon the 7 language of commencement of 8 operation. The language is already 9 in the rule and would allow one 10 portion to go forward to the Board 11 and get that out of the way. If 12 the Council prefers that all three 13 subchapters be considered 14 simultaneously, we could hold those 15 over until January and depending 16 upon our position with commencement 17 of operation it's possible that we 18 could go ahead and approve the 19 changes that are absolutely 20 necessary for CO2 equivalent that 21 are tied to the correction and 22 continue working on the 23 commencement of operation 24 definition. 25 Joyce mentioned an</p>
<p>Page 46</p> <p>1 January. We're already working on 2 some language for increasing the 3 time period for applying for an 4 operating permit. And so it was 5 our intention to bring it to the 6 January meeting. 7 MR. HAUGHT: So really no 8 intent that this commencement of 9 operation definition has to be 10 approved/passed before the 11 Subchapter 7 and 8 changes would 12 happen? I guess, it sounded like 13 we wanted to do that simultaneously 14 -- do Subchapter 7 and 8 together 15 so you had a common definition. 16 And that can't happen until later 17 in 2012 at the earliest anyway. It 18 can't happen in January could it? 19 I wouldn't think it could happen in 20 the January meeting. We would get 21 that through the first -- the first 22 time. Subchapter 7. 23 MS. BRADLEY: Yes. And we 24 could consider the -- we could hold 25 over Subchapter 1 and 8 and</p>	<p>Page 48</p> <p>1 opportunity to continue to provide 2 us comments. Yes, we can go into 3 the comment -- this subsequent 4 period following the Council 5 meeting. We'll take the 6 information in and take that into 7 consideration in formulating a plan 8 for revising the definition. With 9 email and modern technologies we 10 found that communications are a lot 11 more fluent and we share ideas back 12 and forth so anyone who is 13 interested in participating in that 14 we can include as we move forward. 15 MR. HAUGHT: I'm okay with 16 that. I just wanted to make sure 17 that these were not -- that this 18 commencement of operation wasn't 19 time sensitive if we do break these 20 apart. And I don't see any reason 21 not to do Subchapter 8 as it is 22 now. It's going to reference a 23 definition and that definition will 24 change when it changes. So I just 25 wanted to make sure that we could</p>

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1 do that.

2 MS. LODES: And there is  
3 not a definition of commencement of  
4 operation in the current  
5 regulations anywhere even though it  
6 says commencement of operation in  
7 our current Subchapter 8.

8 DR. SHEEDY: That is  
9 right.

10 MS. LODES: And that is  
11 why there's been so much confusion  
12 with compliance enforcement and  
13 others as to what is commencement  
14 of operation.

15 MR. HAUGHT: I see.

16 MS. LODES: So stating  
17 commencement of operation anywhere  
18 in Subchapter 8 doesn't change the  
19 quandary we've been in for any  
20 number of years.

21 DR. SHEEDY: No. And it  
22 has the --

23 MS. MYERS: What about the  
24 CO2 equivalent definition.

25 MS. LODES: That's a whole

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1 agree with the Council at least  
2 delaying the rule until Subchapter  
3 7 can be opened as well. So that's  
4 all I have. Thank you.

5 MR. THOMAS: That's all  
6 the forms I have. Is there anyone  
7 else that would like to address  
8 this issue? If not, I'll turn it  
9 back to the Council.

10 MS. LODES: Do we have  
11 additional questions or comments  
12 from the Council? I know we're all  
13 trying to digest this.

14 MR. HAUGHT: Laura, I'd  
15 like to know and, Rob maybe, if we  
16 are going to break these a part and  
17 try to get the Subchapter 8 portion  
18 approved at this meeting. What  
19 kind of a motion does that take?  
20 How do you -- how would we word  
21 that to separate it? Okay. Just  
22 say that you're going to approve  
23 the Subchapter 8 changes at this  
24 point and continue the Subchapter  
25 1?

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1 other question that I was trying to  
2 figure out.

3 MR. THOMAS: Do we have  
4 any more questions or comments from  
5 the Council on this item? If not,  
6 we can open it up for questions  
7 from the audience. First I would  
8 like to go over a few little  
9 housekeeping items.

10 We would ask that you mute  
11 your cell phones. We would also  
12 ask that you fill out the  
13 appropriate forms at the front desk  
14 if you wish to make an oral  
15 comment. We would ask that you  
16 limit your comments to five minutes  
17 and that these comments be limited  
18 and pertain to the Agenda item.  
19 Right now I have a notice from --  
20 or form from Angie Burkhalter that  
21 she would like to speak on this  
22 item.

23 MS. BURKHALTER: Angie  
24 Burkhalter with OIPA. We submitted  
25 written comments. And we would

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1 MR. SINGLETARY: Yes.

2 MS. LODES: Do we have any  
3 additional questions or comments  
4 from the Council? If not, do I  
5 have a motion to act on this in  
6 some fashion?

7 MR. BRANECKY: I make a  
8 motion that we approve Subchapter 8  
9 as presented to us today and  
10 continue Subchapter 1 to the  
11 January 2012 meeting.

12 MS. LODES: I have a  
13 motion. Do I have a second?

14 MR. GAMBLE: Second.

15 MS. LODES: I have a  
16 motion and a second. Myrna, will  
17 you please call roll?

18 MS. BRUCE: Gary Collins.

19 MR. COLLINS: Yes.

20 MS. BRUCE: For the record  
21 David Gamble has arrived. David.

22 MR. GAMBLE: Yes.

23 MS. BRUCE: Montelle  
24 Clark.

25 MR. CLARK: Yes.

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<p>Sheet 14 Page 53</p> <p>1 MS. BRUCE: Jim Haught. 2 MR. HAUGHT: Yes. 3 MS. BRUCE: Sharon Myers. 4 MS. MYERS: Yes. 5 MS. BRUCE: David 6 Branecky. 7 MR. BRANECKY: Yes. 8 MS. BRUCE: Laura Lodes. 9 MS. LODES: Yes. 10 MS. BRUCE: Motion passed 11 MS. LODES: Okay. I 12 believe I also need a motion as to 13 what we're going to do with 14 Subchapter 1. Am I correct? 15 MR. BRANECKY: I thought 16 that was part of my motion -- 17 MS. BOTCHLET-SMITH: Was 18 part of his motion. 19 MR. BRANECKY: -- to 20 continue it. 21 MS. LODES: Okay. 22 MR. THOMAS: The next item 23 on the Agenda is Item Number 5B, 24 OAC 252:100-31 Control of Emissions 25 of Sulfur compounds. Brooks Kirlin</p>	<p>Page 55</p> <p>1 I will highlight these changes as 2 we go through the proposal. 3 Rules controlling emission of 4 sulfur oxides were first effective 5 on July 1, 1972 as Oklahoma 6 Department of Health Regulation 16. 7 The 1972 rule contained ambient 8 Sulfur Dioxide or SO2 standards for 9 all facilities that existed on the 10 effective date. These limits were 11 substantially the same as those 12 found in the current rule under 13 Section 31-7, Subsection (a). 14 Effective December 31, 1974, these 15 ambient standards were also applied 16 to new, as of that date, new 17 petroleum and natural gas process 18 facilities. 19 The 1972 rule also set SO2 20 and sulfuric mist emission limits 21 for new sulfuric acid plants, and 22 the SO2 limits for new fuel-burning 23 equipment, sulfur recovery plants, 24 nonferrous smelters and paper pulp 25 mills. Again, process equipment</p>
<p>Page 54</p> <p>1 of the staff will make the 2 presentation. 3 MR. KIRLIN: Madam Chair, 4 Members of the Council, ladies and 5 gentlemen. I'm Brooks Kirlin, I am 6 an engineer with the Rules and 7 Planning Section. 8 The Department is proposing 9 to amend the requirements of 10 Subchapter 31, Control of Emissions 11 of Sulfur Compounds, and to clarify 12 existing language. You may recall 13 that we have made presentations on 14 Subchapter 31, and the SO2 NAAQS at 15 several previous Council meetings 16 and no action by the Council was 17 requested on those occasions. This 18 is the second time for the Council 19 to consider the proposed amendments 20 to Subchapter 31. At Mr. 21 Branecky's suggestion, we have 22 included in your folder a version 23 of the rules that highlights the 24 differences between our July 25 proposal and today's proposal. And</p>	<p>Page 56</p> <p>1 installed after the effective date 2 of July 1, 1972 would be considered 3 new. 4 After the rule first became 5 effective it's been modified, I 6 believe, ten times prior to 2002, 7 when the rule was substantially 8 rewritten to its present form. 9 The rule was again modified 10 slightly in 2003 to clarify that 11 the ambient SO2 standards in 12 Section 31-7 apply to the entire 13 facility, not just individual units 14 within the facility. 15 The rewrite in 2002 corrected 16 many confusing aspects of the rule, 17 but confusion still exists with 18 regard to existing and new sources. 19 This proposal inserts the 20 applicable dates in the individual 21 sections rather than relying on 22 the, somewhat convoluted, 23 definitions for "new facility" and 24 "existing facility" that are 25 currently in Subchapter 31.</p>

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1 The most substantial change  
2 would be to Section 31-7(a). The  
3 Department is proposing to drop the  
4 five SO2 ambient standards. We  
5 believe that these standards are  
6 outmoded in light of the new  
7 one-hour SO2 National Ambient Air  
8 Quality Standard of 0.075 ppm. By  
9 comparison, the existing Section  
10 31-7 allows a one-hour average of  
11 0.46 ppm. We do not believe that  
12 the existing numbers are  
13 protective, and staff does not  
14 believe that we have an adequate  
15 rationale or method for simply  
16 adjusting these numbers in a way  
17 that would allow permittees and our  
18 permit writers to demonstrate  
19 compliance with the NAAQS and the  
20 purpose of the Subchapter using our  
21 current modeling and monitoring  
22 protocols. As we mentioned during  
23 July's Council meeting, we had  
24 received a comment from EPA Region  
25 6 staff reminding us that we will

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1 need to demonstrate that dropping  
2 these standards will not violate  
3 the anti-backsliding provisions of  
4 the Clean Air Act. After a direct  
5 discussion with the EPA staff we  
6 believe that once a change is  
7 finalized, we will be able show  
8 that we won't lose any substantial  
9 protection, considering the NAAQS  
10 and other existing requirements.  
11 As suggested last time by  
12 Council Members, we have restored  
13 the existing -- in this proposal,  
14 existing Subsections 31-7(c) and  
15 (d) into today's proposal --  
16 discovered the exception for  
17 on-facility ambient conditions and  
18 the compliance assurance provision,  
19 respectively.  
20 We again proposed to add a  
21 definition for "alternative fuel"  
22 to the definitions under Section  
23 31-2, and requirements under  
24 Section 31-25 for new fuel-burning  
25 equipment that use alternative

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1 fuel. We have reworded these  
2 requirements in Response to  
3 Comments, to better focus them on  
4 the purpose of the Subchapter.  
5 Staff has again proposed  
6 adding a new Section 31-4, to avoid  
7 a potential double reporting  
8 requirement on excess emissions  
9 that are covered by both Subchapter  
10 31 and an applicable 40 CFR Part 60  
11 standard. The new Subchapter 9 has  
12 alternative reporting provisions  
13 that accommodate the excess  
14 emissions reporting requirements  
15 for the 40 CFR Part 60 rules.  
16 However, these alternative  
17 reporting provisions aren't  
18 currently available for identical  
19 or simultaneous Subchapter 31  
20 excess emission.  
21 The new Section 31-4 has been  
22 added to avoid requiring double  
23 reporting by extending the  
24 alternative excess emissions  
25 reporting option to those sources.

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1 Notice of the proposed rule  
2 changes was published in the  
3 Oklahoma Register on September 1,  
4 2011. We received comments from  
5 Mr. Gamble, and from Mr. Stephen  
6 Landers of Georgia-Pacific and  
7 Steven Smith of Verallia which is  
8 formerly Saint-Gobain Containers.  
9 A copy of these comments and  
10 Response to Comments are included  
11 in your folder. I will go over  
12 some of these comments in a moment.  
13 The Response to Comments also  
14 addresses several comments that we  
15 discussed during the July Council  
16 meeting. These comments were from  
17 Mr. Guy Donaldson of EPA, Mr. Tom  
18 Rader on behalf of Lone Star  
19 Industries doing business as Buzzi  
20 Unicem USA, and Ms. Kathryn  
21 Crenwelge on behalf of  
22 International Paper Valliant Mill.  
23 The comparison version of the  
24 rules highlights a number of minor  
25 changes made in response to

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1 previous comments and Council  
2 Member suggestions including the  
3 alternative fuels requirement.

4 We have also included in your  
5 folder this two-page document that  
6 lists several changes to the  
7 proposal that staff would recommend  
8 in response to these additional  
9 comments and staff discussions.

10 First, while looking into a  
11 question on whether the monitoring  
12 requirements in Section 31-16 are  
13 still needed, we found that they  
14 are apparently related to  
15 requirements in 40 CFR Part 51,  
16 Appendix P. Therefore, we are now  
17 recommending retaining use of the  
18 term "fossil fuel-fired steam  
19 generators" in Section 31-16, and  
20 adding the definition for that term  
21 that is contained in 40 CFR Section  
22 51.100(ee) in place of what we had  
23 previously proposed as a "steam  
24 generator unit".

25 As requested by

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1 not the correct number to use. So  
2 as discussed in the Response to  
3 Comments staff has recommended  
4 replacing the proposed 160 ppmv  
5 with 500 ppmv.

6 MS. MYERS: Which part was  
7 that, Brooks?

8 MR. KIRLIN: That was in  
9 31-25, it's --

10 MS. LODES: It's Page 2  
11 here, Sharon.

12 MR. KIRLIN: -- Subsection  
13 3 (A)(ii).

14 MS. MYERS: Okay. I'm  
15 with you. I'm with you. Thank  
16 you.

17 MR. KIRLIN: Staff  
18 recognizes that Subchapter 31 and  
19 the proposed changes are -- there  
20 is a lot of changes and it's very  
21 complex and we've got -- the  
22 subchapter have roots that go back  
23 to the early '70s. We may not be  
24 able to track down all the reasons  
25 for sources -- and sources for

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1 Georgia-Pacific, we recommend  
2 changing the proposed phrase "The  
3 owner or operator shall  
4 continuously monitor" in this  
5 section. This is in 31-25 which  
6 was the original question.

7 Changing that phrase to "The owner  
8 or operator shall install,  
9 calibrate, maintain, and operate a  
10 continuous monitoring system" and  
11 that's in several locations. One  
12 each in Sections 31-13, 31-16, and  
13 31-27, and twice in 31-25.

14 Staff also recommends a  
15 couple of additional changes to  
16 Section 31-25 for new fuel-burning  
17 equipment. One change would  
18 clarify that the limits listed are  
19 intended to affect "emissions  
20 attributable to the burning of  
21 fuel". We also found that using  
22 160 ppmv total sulfur as a  
23 substitute for the existing 0.1  
24 weight percent sulfur monitoring  
25 exemption in 31-25(3)(A)(ii)(I) was

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1 these -- all of these long-standing  
2 rules. However, staff does feel  
3 that we have addressed the issues  
4 raised, and therefore asks that the  
5 Council recommend the proposed  
6 rule, with the changes described  
7 today, to the Environmental Quality  
8 Board for approval as a permanent  
9 rule change.

10 Thank you.

11 MR. THOMAS: At this time  
12 we'll take comments and questions  
13 from the Council.

14 MR. BRANECKY: I guess I  
15 do have one comment. This is not a  
16 make or break -- but I'm just  
17 trying to understand, it's probably  
18 a carryover but under 25-4 I think  
19 it is -- 31-25, and we talked about  
20 this earlier, Brooks, the  
21 requirement to monitor opacity, why  
22 do we have a requirement to monitor  
23 opacity in a sulfur rule? Is there  
24 a reason that needs to be in there  
25 -- is not the requirement for

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1 monitoring opacity covered in other  
2 rules? This is just my attempt to  
3 probably clean things up a little  
4 bit and make them a little more  
5 understandable. Even if you have  
6 the requirement as stated, you have  
7 a requirement to measure opacity,  
8 there's no statement in there about  
9 the limit, so what are you  
10 monitoring against? Are you just  
11 monitoring?  
12 Those are my questions of why  
13 that requirement is in there.  
14 MS. MYERS: Wasn't that  
15 something you raised at the last  
16 Council meeting?  
17 MR. BRANECKY: Yeah.  
18 MS. MYERS: Okay.  
19 MR. BRANECKY: Like I said  
20 it's probably not a make or break  
21 --  
22 MR. KIRLIN: Right.  
23 MR. BRANECKY: -- it's  
24 just an attempt to clean up some  
25 old language that has probably been

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1 in there since '72.  
2 MR. KIRLIN: Right. As  
3 far as why the requirement is in  
4 this section, I haven't been able  
5 to find that in the old minutes of  
6 the meetings. It is -- that is an  
7 existing requirement. Like I said  
8 I'm not --  
9 MR. BRANECKY: Would there  
10 be a situation where the need to  
11 monitor opacity is not covered  
12 under another rule for facility?  
13 MR. KIRLIN: I don't know.  
14 I'm not -- I'm not sure. Like I  
15 said, again, we did track -- it  
16 doesn't appear that I guess the --  
17 MS. BRADLEY: Brooks --  
18 this is Cheryl.  
19 MR. KIRLIN: The voice  
20 from the audience.  
21 MS. BRADLEY: There seems  
22 to be something that we can infer  
23 that due to Appendix P including  
24 language to require monitoring for  
25 multiple pollutants that it may

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1 have been added as a direct result  
2 of implementation of Appendix P  
3 originally out of convenience. So  
4 it's part of the -- again, as  
5 Brooks stated, the long history for  
6 the rule. Whether it's right or  
7 wrong -- there could be a cleaner  
8 way but it appears that it may have  
9 been tied to implementation of  
10 federal requirements, but we  
11 couldn't definitively pin point it.  
12 MR. BRANECKY: Maybe we  
13 don't need to understand why it was  
14 put in there to begin with, just  
15 look at it, and see does it need to  
16 be in there today.  
17 MS. MYERS: And especially  
18 with no limit.  
19 MS. LODES: So that --  
20 MS. MYERS: If you have an  
21 opacity monitoring system that goes  
22 out of commission for any reason,  
23 now, technically you're out of  
24 compliance with your -- with the  
25 requirements of the rule and there

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1 is nothing there to measure it  
2 against. There is no metric for  
3 it.  
4 MS. LODES: I mean is  
5 there a harm in just striking that  
6 part of it when we're cleaning up  
7 the rest of the rules?  
8 MS. BRADLEY: The only  
9 risk that we would have would be in  
10 the approval of a SIP revision.  
11 And in not providing an opportunity  
12 for EPA to evaluate the proposed  
13 rule change with that deleted, I  
14 would -- I can't predict what their  
15 position would be.  
16 MS. LODES: I mean I would  
17 think, like David, that we could  
18 make the argument if the EPA came  
19 back and said, well, it's  
20 backsliding or something on the  
21 SIP, we could say, well, we have a  
22 whole chapter on opacity.  
23 MS. BRADLEY: Yes. We  
24 could.  
25 MS. LODES: So wouldn't we

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1 be covered?  
2 MR. KIRLIN: I'm not --  
3 actually I'd was just glancing  
4 through --  
5 MS. BRADLEY: However, the  
6 opacity chapter does not require  
7 continuous monitoring. So therein  
8 is the difference between a limit  
9 in for -- that may be applied or a  
10 requirement that is applied under  
11 Subchapter 31 and the general  
12 opacity requirement.  
13 MR. COLLINS: Brooks, I've  
14 got a question. In 31-25-1  
15 emissions limits. That change that  
16 you made "attributable to burning  
17 of fuel", is that in an effort to  
18 address the comments from Steve  
19 Smith?  
20 MR. KIRLIN: Yes.  
21 MR. COLLINS: Okay. Is  
22 there anybody here -- have you  
23 spoken with him since you've made  
24 those changes?  
25 MR. KIRLIN: I don't

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1 believe I've had that opportunity.  
2 MR. COLLINS: Okay. But  
3 we feel comfortable with -- with  
4 that. I mean that's not what he  
5 suggested but it looks like it  
6 addresses the concern that he had  
7 with sulfur from non-fuel.  
8 MS. LODES: Gary, I was  
9 looking at the comments he  
10 suggested to further -- I'm sorry.  
11 I was looking at the suggestions to  
12 further clarify that, that he had  
13 in this letter.  
14 MS. BRADLEY: Mr. Collins,  
15 the response -- our response to  
16 Verallia and the email that we  
17 received from Mr. Smith, was posted  
18 on the website in our Comments and  
19 Response document so it was --  
20 whether he accessed it or not we  
21 did post our official response.  
22 MR. COLLINS: Okay. Thank  
23 you.  
24 MR. THOMAS: Do we have  
25 any further questions from the

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1 Council?  
2 MS. MYERS: I have one. I  
3 was contacted by one of the paper  
4 mills that wanted to know why the  
5 new mill requirement of 18 pounds  
6 per ton of pulp produced -- why is  
7 that necessary over NSPS or NESHAP?  
8 MS. LODES: Sharon, where  
9 are you looking?  
10 MS. MYERS: I'm not  
11 looking at the rule right now.  
12 Well, that's in Subpart 31-27.  
13 MS. LODES: Okay. Thank  
14 you.  
15 MS. MYERS: On the  
16 emission limit of 18 pounds per  
17 ton. And that's considerably  
18 different than what I understand  
19 from NESHAPs and NSPS.  
20 MR. KIRLIN: I believe  
21 that our basic response was that we  
22 were not -- we looked into that so  
23 we -- we were concerned about -- I  
24 mean this -- I have not been able  
25 to find the actual -- I mean I

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1 found when that was put in, in the  
2 minutes. I haven't found where the  
3 number actually originated.  
4 We did have some concern  
5 about making a substantive change  
6 to the existing language because --  
7 you know, some of the NESHAPs --  
8 some of the processes, some of the  
9 limits, some of the equipment,  
10 definitely there is some overlap  
11 between the NSPS and the rule, but  
12 it was our concern that it did not  
13 -- you know, they weren't  
14 necessarily precisely the same and  
15 they're in our SIP, in our Section  
16 111 (D) plans to cover the  
17 facilities and like I said we're  
18 concerned about trying to make that  
19 substantive change going through  
20 the SIP process to remove it when  
21 we weren't sure that it didn't --  
22 that all they effects were  
23 identical and it was entirely  
24 obsolete.  
25 MS. MYERS: What does it

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<p>Sheet 19 Page 73</p> <p>1 take to figure that out? It's an 2 antiquated rule -- it's an old 3 rule, we know that. And we also 4 know that historically there have 5 been times when numbers just 6 sounded good. And I'm not saying 7 that's what happened here but I 8 know it has happened in the past. 9 What would it take to verify 10 whether that's a valid number or 11 whether it even needs to be in 12 here?</p> <p>13 MR. KIRLIN: Well, we 14 would need to probably pull -- like 15 I said, go back through the, I 16 guess, the tape recordings of the 17 old Council meetings and try to 18 determine, you know, if we can see 19 where that number came from and 20 compare and do a side by side 21 comparison of that -- any NSPS, any 22 permits that would be affected.</p> <p>23 MS. BRADLEY: I think part 24 of the challenge is that the 25 terminology is not written in such</p>	<p>Page 75</p> <p>1 various steps here. And 2 unfortunately we do not have 3 definitive answers in some of these 4 really old areas of the rule, nor 5 were we able to determine if in 6 fact had any superseding or direct 7 overlap of the regulations.</p> <p>8 MR. THOMAS: Do we have 9 any additional questions or 10 comments from the Council?</p> <p>11 MS. MYERS: What is the 12 purpose of dropping the existing 13 mill or facility definitions? You 14 have in that first definition 15 section, you dropped new and 16 existing. What was the purpose of 17 dropping those?</p> <p>18 MR. KIRLIN: The new and 19 existing?</p> <p>20 MS. MYERS: Yes. 21 MR. KIRLIN: Because the 22 -- like I said those were -- 23 they're pretty involved definitions 24 and required each -- required to go 25 to each section, go back to that</p>
<p>Page 74</p> <p>1 a way that we are able to do a 2 direct comparison just with the 3 regulation. It will require a 4 review of the actual facility and 5 the applicable regulations to see 6 how they interplay.</p> <p>7 As Brooks identified, we have 8 regulations that apply to pulp 9 mills, we have regulations that 10 apply to craft paper mills, we have 11 111 (D). In this case we have a 12 very small universe of sources that 13 are actually subject to these 14 requirements. One of the options 15 would be an applicability 16 determination to do a side by side 17 comparison looking at specifics. 18 And we were unable to accomplish 19 that in the timeline (inaudible). 20 But that might be one way of 21 dealing with it, Sharon.</p> <p>22 We have been working very 23 closely with the permitting section 24 and the compliance and enforcement 25 section as we move through the</p>	<p>Page 76</p> <p>1 definition to see whether -- which 2 date applied to a particular 3 section; new and existing. Our 4 intent was to actually move the 5 effective date into the effected 6 section.</p> <p>7 For instance, 31-13 for 8 existing sulfuric acid plants, we 9 put in any sulfuric acid plant that 10 was in -- being on or before August 11 17th, 1971 shall comply with the 12 following requirements. Because 13 that's the date in the definition 14 of existing facility -- that's (b) 15 under existing facility, that 16 specific section. That was the 17 purpose of deleting those 18 definitions, to actually put in a 19 -- put the date in the section that 20 it applies to.</p> <p>21 MR. THOMAS: Any 22 additional questions from the 23 Council? We haven't received any 24 Notices from persons in the 25 audience wishing to speak. Is</p>

# Myers Reporting

<p>Sheet 20 Page 77</p> <p>1 there anybody in the audience today 2 that would like to address 3 Subchapter 31? 4 Turn it over to the Council. 5 MS. LODES: Do we have any 6 further discussion from the 7 Council? We have this item on the 8 Agenda. I need a motion to do 9 something with this regulation. 10 MS. MYERS: Before we 11 accept a motion, I'll just state 12 that I'm not comfortable passing 13 this rule with the section relating 14 to opacity, that is still up in the 15 air. There is no limits. There is 16 no guidelines on how they're 17 supposed to monitor it. So I'm not 18 comfortable with passing it. I'll 19 just say that. The Council can do 20 what they want to but I'm not going 21 to support it. 22 MS. LODES: Well, do we 23 have a motion to either continue 24 this regulation or to pass it 25 today?</p>	<p>Page 79</p> <p>1 for just the opacity. 2 MS. LODES: I think that 3 -- 4 MS. MYERS: I think they 5 also need to work with the 6 facilities that have the concerns 7 about the definitions of new and 8 existing -- which I know there has 9 been some comments filed and some 10 requests made on that. 11 MS. LODES: Well, as they 12 have done on the -- 13 MS. MYERS: The 18 pounds. 14 MS. LODES: -- the 18 15 pounds. I have a motion and we 16 have direction for the staff. Do I 17 have a second? 18 MR. COLLINS: What is the 19 issue -- is there any issue in 20 continuing this? What does that 21 present? Any problems? 22 MS. BOTCHLET-SMITH: It's 23 really not going to change the 24 effective date on this one either 25 whether we take it in November or</p>
<p>Page 78</p> <p>1 MS. MYERS: I'll make a 2 motion that we continue the 3 regulation for Subchapter 31 until 4 January. 5 MS. LODES: I have a 6 motion. Do I have a second? 7 MR. BRANECKY: What's 8 going to happen in the interim if 9 we continue it? It comes back in 10 January -- are we asking the staff 11 to do something between now and 12 January? 13 MS. MYERS: We need a 14 definition of opacity and why it's 15 there. 16 MS. BOTCHLET-SMITH: Well, 17 staff can take another look at that 18 and research that a little bit 19 fuller and when we bring it back it 20 in January hopefully be able to 21 answer those questions for you. 22 MR. BRANECKY: Are there 23 other questions besides that, that 24 staff needs to investigate so we'll 25 be clear? Or just -- you're asking</p>	<p>Page 80</p> <p>1 we take it in January. It's still 2 going to be effective in July. 3 MS. LODES: Do I have a 4 second? 5 MR. COLLINS: I'll second. 6 MS. LODES: Thank you. 7 Myrna, I have a motion and a 8 second. Will you please call roll. 9 MS. BRUCE: Gary Collins. 10 MR. COLLINS: Yes. 11 MS. BRUCE: David Gamble. 12 MR. GAMBLE: Yes. 13 MS. BRUCE: Montelle 14 Clark. 15 MR. CLARK: Yes. 16 MS. BRUCE: Jim Haught. 17 MR. HAUGHT: Yes. 18 MS. BRUCE: Sharon Myers. 19 MS. MYERS: Yes. 20 MS. BRUCE: David 21 Branecky. 22 MR. BRANECKY: Yes. 23 MS. BRUCE: Laura Lodes. 24 MS. LODES: Yes. 25 MS. BRUCE: Motion passed</p>

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Sheet 21 Page 81

1 MR. THOMAS: The next item  
2 on the Agenda would be Number 5C.  
3 OAC 252:110 Lead-Based Paint  
4 Management including Subchapter 1,  
5 General Provisions amended.  
6 Subchapter 5, Incorporation by  
7 reference amended. Subchapter 15,  
8 Additional Renovation, Repair, and  
9 Painting Requirements, New.

10 Laura Finley from the legal  
11 staff will be making the  
12 presentation.

13 MS. BOTCHLET-SMITH: You  
14 may want to wait until David gets  
15 back.

16 MS. LODES: Yes. And  
17 actually before we do this, do we  
18 need a few minutes?

19 Why don't we take a quick ten  
20 minute break? It's 10:15 now, so  
21 why don't we break until 10:25.  
22 Sorry, Laura.

23 (Break)

24 MS. LODES: Let's call  
25 this meeting back to order. Laura,

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1 substantive. I can make  
2 information available regarding the  
3 changes or I can give you a brief  
4 summary at the end of my  
5 presentation if anybody is curious.

6 Just to refresh everyone's  
7 recollection, the adoption of the  
8 RRP Rule will allow the DEQ to  
9 receive delegation from EPA to run  
10 the RRP program in this state. The  
11 requirements of the Federal RRP  
12 Rules are already in effect and  
13 being enforced in the state of  
14 Oklahoma by EPA. Our adoption of  
15 these rules only changes the  
16 entity, enforcing the rule, from  
17 EPA to DEQ. The RRP Rules  
18 establish accreditation, training,  
19 certification, and recordkeeping  
20 requirements for persons performing  
21 renovations for compensation in  
22 pre-1978, child-occupied,  
23 facilities and housing. Largely,  
24 we are simply incorporating by  
25 reference the federal rules.

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1 please begin your presentation.

2 LAURA FINLEY: Hello. My  
3 name is Laura Finley. I'm one of  
4 the attorneys for the Air Quality  
5 Division. Today we are presenting  
6 for your approval changes to OAC  
7 252, Chapter 110 to adopt the  
8 federal Renovation, Repair, and  
9 Painting Rules, or RRP Rules.

10 You'll recall that we are  
11 seeking to obtain delegation from  
12 EPA of the Federal RRP program.  
13 When we presented this rule to the  
14 Council in July, we requested that  
15 you hold over approval until this  
16 meeting because on July 15, 2011,  
17 just prior to the Council meeting,  
18 EPA released revisions to the  
19 Federal RRP Rules.

20 We wanted to make sure that  
21 our staff had a chance to  
22 sufficiently review the new Federal  
23 rules. The staff has since  
24 reviewed the amendments and  
25 determined that they are not

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1 We are also adding a new  
2 Subchapter 15, which essentially  
3 allows us to tailor certain of the  
4 federal requirements into our state  
5 regulatory scheme, and those  
6 predominantly deal with the payment  
7 of fees and the accreditation of  
8 training facilities.

9 The changes being proposed  
10 today are no more or less stringent  
11 than the Federal rules. This rule  
12 was first presented to the Council  
13 on January 19, 2011. We received  
14 some comments at that meeting, and  
15 those have all been addressed and  
16 remedied within the rule. The rule  
17 was next presented to the Council  
18 on July 20, 2011. The only comment  
19 we received prior to the July  
20 meeting was a letter in support of  
21 our proposal from EPA. This  
22 proposed rule was published in the  
23 Oklahoma register on September 1,  
24 2011. We asked for written  
25 comments and received none.

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<p>Sheet 22 Page 85</p> <p>1 Therefore, we respectfully request 2 that the Council approve this rule 3 change. 4 MR. THOMAS: At this time 5 we will take comments and questions 6 from the Council. 7 MS. LODES: I don't think 8 we have any -- doesn't look like we 9 have any comments. 10 MR. THOMAS: Being none, I 11 haven't received any -- we haven't 12 received any notices on comments 13 that anyone wishes to speak or any 14 Notices. Is there anyone in the 15 audience that would like to address 16 this Agenda item? 17 MS. LODES: Do we have any 18 further questions or discussions 19 from the Council? 20 Hearing none, do we have -- 21 the DEQ has asked that we go ahead 22 and pass this regulation. Do I 23 have a motion? 24 MR. BRANECKY: I'll move 25 that we pass the rule as presented</p>	<p>Page 87</p> <p>1 MR. THOMAS: The next 2 Agenda item is 5D, OAC 252:100-2 3 Incorporation by Reference and 4 Appendix Q 5 Nancy Marshment, of the staff 6 will give the presentation 7 concerning these revisions. 8 MS. MARSHMENT: Madam 9 Chair, Members of the Council, 10 ladies and gentlemen, I am Nancy 11 Marshment, Environmental Programs 12 Specialist with the Air Quality 13 Division. The Department is 14 proposing to clarify language in 15 Subchapter 2, Incorporation by 16 Reference, to better connect its 17 references to Appendix Q 18 In addition, the Department 19 is proposing to revoke the current 20 Chapter 100, Appendix Q, 21 Incorporation by Reference, and 22 adopt a new Appendix Q This 23 proposal is part of the annual 24 update of Title 40, Code of Federal 25 Regulations, Incorporations by</p>
<p>Page 86</p> <p>1 to us today by DEQ staff. 2 MS. LODES: Thank you, 3 David. Do I have a second? 4 MR. HAUGHT: I'll second 5 it. 6 MS. LODES: I have a 7 motion and a second. Myrna, will 8 you please the call roll. 9 MS. BRUCE: Gary Collins. 10 MR. COLLINS: Yes. 11 MS. BRUCE: David Gamble. 12 MR. GAMBLE: Yes. 13 MS. BRUCE: Montelle 14 Clark. 15 MR. CLARK: Yes. 16 MS. BRUCE: Jim Haught. 17 MR. HAUGHT: Yes. 18 MS. BRUCE: Sharon Myers. 19 MS. MYERS: Yes. 20 MS. BRUCE: David 21 Branecky. 22 MR. BRANECKY: Yes. 23 MS. BRUCE: Laura Lodes. 24 MS. LODES: Yes. 25 MS. BRUCE: Motion passed.</p>	<p>Page 88</p> <p>1 Reference in Chapter 100. 2 Today is the third time the 3 staff has presented this proposal 4 to the Council. Changes to 5 Appendix Q have been updated since 6 the last presentation in January to 7 reflect federal regulations that 8 have been implemented as of August 9 1, 2011. The update would also 10 incorporate any amendments to 11 standards currently listed in 12 Appendix Q 13 In your folders on the table 14 are new copies of Appendix Q These 15 do not match the one you received 16 in your packets. Those did not 17 include the changes that were 18 included in the January proposal. 19 The new copies, which are also 20 available as handouts, show the 21 additions and changes with 22 highlighting to make it easier to 23 spot them. And just a note that 24 the ones on the table, for the 25 audience, the highlighting did not</p>

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<p>Sheet 23 Page 89</p> <p>1 show up but all the changes are 2 there. You just can't -- you have 3 to look for them, I guess. 4 The following 40 CFR rules 5 are being proposed for 6 incorporation by reference in 7 Appendix Q 40 CFR Part 60, Subpart 8 LLLL, Standards of Performance for 9 New Sewage Sludge Incineration 10 Units. 11 40 CFR Part 63, Subpart 12 DDDDD, National Emission Standards 13 for Hazardous Air Pollutants for 14 Major Sources, Industrial, 15 Commercial, and Institutional 16 Boilers and Process Heaters. 17 40 CFR Part 63, Subpart 18 JJJJJJ, National Emission Standards 19 for Hazardous Air Pollutants for 20 Industrial, Commercial, and 21 Institutional Boiler Area Sources. 22 40 CFR Part 63, Subpart 23 BBBBBBB, National Emission 24 Standards for Hazardous Air 25 Pollutants for Area Sources,</p>	<p>Page 91</p> <p>1 since the January proposal. 2 Notice was published in the 3 Oklahoma Register on September 1, 4 2011 for these proposed changes. 5 The Notice requested written 6 comments from the public and other 7 interested parties. No comments 8 have been received as of today. 9 Staff requests the Council 10 recommend this rulemaking to the 11 Environmental Quality Board for 12 permanent adoption. 13 I believe that you will need 14 to adopt Appendix Q as amended with 15 the previous changes included. 16 Thank you. 17 MR. THOMAS: Are there any 18 questions or comments from the 19 Council? 20 MR. HAUGHT: Nancy, so 21 this August 1st date, the reference 22 date, that's correct? 23 MS. MARSHMENT: Right. 24 That was our cutoff for, you know, 25 searching the Federal Register so</p>
<p>Page 90</p> <p>1 Chemical Preparations Industry. 2 40 CFR Part 63, Subpart 3 DDDDDDD, National Emission 4 Standards for Hazardous Air 5 Pollutants for Area Sources, 6 Prepared Feeds Manufacturing. 7 40 CFR Part 63, Subpart 8 EEEEEEE, National Emission 9 Standards for Hazardous Air 10 Pollutants, Gold Mine Ore 11 Processing and Production Area 12 Source Category. 13 Also, the titles for two 14 subparts have been modified. 15 References to Part 63, Subpart 16 CCCCCC, and Part 64 were updated 17 to reflect more precisely the 18 titles as they appear in the Code 19 of Federal Regulations. 20 Subchapter 2 changes are 21 intended to clarify the purpose of 22 the incorporations by reference and 23 to make a better connection between 24 the Subchapter and Appendix Q and 25 no changes have been made to that</p>	<p>Page 92</p> <p>1 -- 2 MR. HAUGHT: Okay. 3 MS. MARSHMENT: -- and 4 typically we did it annually 5 September 1st but since we had held 6 it over, it's already a year 7 behind, we just moved it up a 8 little. 9 MR. HAUGHT: Okay. 10 MR. BRANECKY: Now do we 11 have to revoke the Appendix Q? 12 Vote to revoke Appendix Q and then 13 adopt the new Appendix Q? Okay. 14 Is that how it works? 15 MS. BOTCHLET-SMITH: Rob, 16 do we need to vote to amend the 17 packet or are we good with what is 18 on the table today? 19 MR. SINGLETARY: As 20 presented? 21 MS. BOTCHLET-SMITH: As 22 presented. So we don't have to 23 vote to amend what was previously 24 sent out? 25 MR. SINGLETARY: No. You</p>

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<p>Sheet 24 Page 93</p> <p>1 just --</p> <p>2 MS. BOTCHLET-SMITH: That</p> <p>3 was a question earlier. I just</p> <p>4 wanted to make sure that we got</p> <p>5 that right.</p> <p>6 MR. SINGLETARY: Just that</p> <p>7 the motion would need to be clear</p> <p>8 that what's being adopted is as</p> <p>9 presented today.</p> <p>10 MR. HAUGHT: Does that</p> <p>11 answer your question, David? Are</p> <p>12 you --</p> <p>13 MR. BRANECKY: Yeah.</p> <p>14 MR. HAUGHT: You weren't</p> <p>15 talking about not necessarily</p> <p>16 between the two versions that we</p> <p>17 have.</p> <p>18 MR. BRANECKY: No.</p> <p>19 MR. HAUGHT: You were</p> <p>20 talking about the existing --</p> <p>21 MR. BRANECKY: Right. We</p> <p>22 have to revoke Appendix Q and then</p> <p>23 adopt a whole new Appendix Q</p> <p>24 MR. HAUGHT: Okay. So</p> <p>25 that's still happening. Okay.</p>	<p>Page 95</p> <p>1 2.</p> <p>2 MS. MYERS: I second the</p> <p>3 motion.</p> <p>4 MS. LODES: I have a</p> <p>5 motion and a second. Myrna, will</p> <p>6 you please call roll.</p> <p>7 MS. BRUCE: Gary Collins.</p> <p>8 MR. COLLINS: Yes.</p> <p>9 MS. BRUCE: David Gamble.</p> <p>10 MR. GAMBLE: Yes.</p> <p>11 MS. BRUCE: Montelle</p> <p>12 Clark.</p> <p>13 MR. CLARK: Yes.</p> <p>14 MS. BRUCE: Jim Haught.</p> <p>15 MR. HAUGHT: Yes.</p> <p>16 MS. BRUCE: Sharon Myers.</p> <p>17 MS. MYERS: Yes.</p> <p>18 MS. BRUCE: David</p> <p>19 Branecky.</p> <p>20 MR. BRANECKY: Yes.</p> <p>21 MS. BRUCE: Laura Lodes.</p> <p>22 MS. LODES: Yes.</p> <p>23 MS. BRUCE: Motion passed</p> <p>24 MR. THOMAS: That</p> <p>25 concludes the hearing portion.</p>
<p>Page 94</p> <p>1 MR. BRANECKY: Yeah.</p> <p>2 MS. MARSHMENT: Yeah. I</p> <p>3 just neglected to mention that but</p> <p>4 that's correct. That's typically</p> <p>5 what we do for all appendices. And</p> <p>6 thank you for pointing that out.</p> <p>7 MR. THOMAS: Were there</p> <p>8 any more questions or comments from</p> <p>9 the Council? Are there any</p> <p>10 comments or questions from the</p> <p>11 audience?</p> <p>12 MS. LODES: Hearing no</p> <p>13 further questions or comments, the</p> <p>14 DEQ has recommended that we revoke</p> <p>15 Subchapter Q and then adopt as</p> <p>16 proposed. Do I have a motion?</p> <p>17 MR. BRANECKY: I'll move</p> <p>18 that we revoke Appendix Q and then</p> <p>19 adopt Subchapter -- Appendix Q as</p> <p>20 amended today -- presented to us</p> <p>21 today along with Subchapter 1.</p> <p>22 MS. MARSHMENT: Subchapter</p> <p>23 2.</p> <p>24 MS. LODES: Subchapter 2.</p> <p>25 MR. BRANECKY: Subchapter</p>	<p>Page 96</p> <p>1 Thank you.</p> <p>2 (Hearings Concluded)</p>





# Keyword Index

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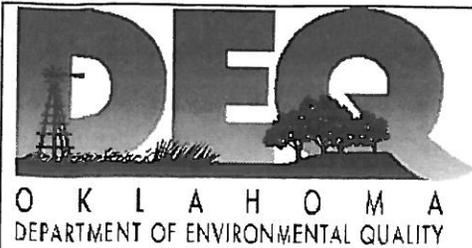
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October 5, 2011

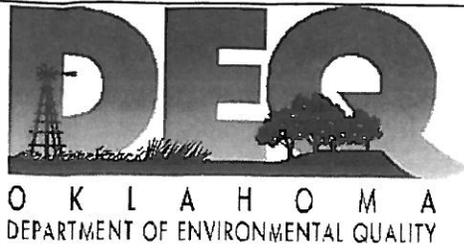
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## Attendance Record

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DON WHITNEY	TRINITY
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