MINUTES
AIR QUALITY COUNCIL
October 21, 2009
Multipurpose Room
707 North Robinson
Oklahoma City OK

AQC Approved
January 20, 2010

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. October 21, 2009 at 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 October 24, 2008. 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 convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Mr. David Branecky, Vice-Chair, called the meeting to order. Ms. Bruce called roll stating that a quorum was not present.

MEMBERS PRESENT
David Branecky
Jim Haught
Sharon Myers
Pete White

MEMBERS ABSENT
Montelle Clark
Gary Collins
Laura Lodes
Bob Lynch
Vacancy

DEQ STAFF PRESENT
Eddie Terrill
Beverly Botchlet-Smith
Scott Thomas
Cheryl Bradley
Rob Singletary

OTHERS PRESENT
Steve Mason, EQB
Christy Myers, Court Reporter

DEQ STAFF PRESENT
Diana Hinson
Brooks Kirlin
Nancy Marshment
Kendal Stegmann
Dawson Lasseter
Myrna Bruce

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

Election of a new Vice Chair - Discussion and action by Council was delayed to the January meeting due to lack of quorum.

Approval of Minutes – Approval of the April 15, 2009 Regular Meeting was delayed to the January meeting due to the lack of a quorum.

Meeting Schedule for Calendar Year 2010 - Meeting dates for 2010 were suggested and are likely. January 20 – April 21 – and October 20 at the DEQ with April 21 planned for Tulsa. The meetings that were scheduled by the Environmental Quality Board are February 26 at the DEQ; June 15 in El Reno; August 24 in Norman; and November 16 in either Stillwater or Tulsa.

Resolutions for Mr. Purkaple and Mr. Treeman – Mr. Terrill expressed staff's appreciation for the time given by both Mr. Purkaple and Mr. Treeman.

Public Rulemaking Hearings
A. OAC 252:100-17. Incinerators, Part 1 and Part 3 [AMENDED]
Appendix A. Allowable Emissions for Incinerators with Capacities in Excess of 100 lbs/hr [REVOKED]
Appendix A. Allowable Particulate Matter Emission Rate for Incinerators [NEW]
Appendix B. Allowable Emissions for Incinerators with Capacities less than 100 lb/hr [REVOKED] Ms. Diana Hinson, Environmental Programs Specialist, explained that the proposal would amend Parts 1 and 3 of OAC 252:100-17, Incinerators, to remove obsolete language and clarify the remaining provisions. In addition, the Department is proposing to revoke Appendix A, Allowable Emissions for Incinerators with Capacities in Excess of 100 lb/hr and Appendix B, Allowable Emissions for Incinerators with Capacities Less than 100 lb/hr. The current provisions of both appendices are proposed to be combined into a new Appendix A, Allowable Particulate Matter Emission Rate for Incinerators. Ms. Hinson noted that due to a lack of a quorum, the rulemaking would be presented at Council's January meeting. Staff answered questions from the Council.

Transcript pages 9 - 14

OAC 252:100-17. Incinerators, Part 4 [AMENDED] Ms. Diana Hinson, Environmental Programs Specialist, explained that the proposal would add a new Part 4, Biomedical Waste Incinerators, to Subchapter 17, Incinerators. The new part will incorporate the Best Available Control Technology for this type of incinerator originally established under the authority of Subchapter 41, Control of Emission of Hazardous and Toxic Air Contaminants, which was revoked in 2007. The addition of Part 4 will reestablish the Department's authority to require design and emission standards for biomedical waste incinerators and close a regulatory gap in Part 7 of Subchapter 17. Ms. Hinson noted that due to a lack of a quorum, the rulemaking would be presented at Council's January meeting. Staff answered questions from the Council.

Transcript pages 14 - 19

OAC 252:100-31. Control of Emission of Sulfur Compounds Mr. Brooks Kirlin, Professional Engineer, explained that the proposal would amend Subchapter 31, Control of Emission of Sulfur Compounds, to clarify the language and add a new requirement that all new sources of sulfur dioxide (SO2) meet the same ambient air standards currently applicable to any facility that was in being before July 1, 1972, and any petroleum and natural gas processing facility that is in being after December 31, 1974. Mr. Kirlin noted that due to a lack of a quorum, no action was taken. Staff answered questions from the Council. Mr. Eddie Terrill added that the rule may not be presented at the January meeting due to an upcoming new proposal by the EPA.

Transcript pages 19 - 35

OAC 252:100, Appendix Q. Incorporation By Reference Ms. Nancy Marshment, Environmental Programs Specialist, explained that the proposal would update Appendix Q, Incorporation By Reference, to incorporate by reference the latest changes to U.S. Environmental Protection Agency regulations. Ms. Marshment noted that due to a lack of a quorum, the rulemaking would be presented at Council's January meeting.

Transcript pages 35 - 38

NAAQS Update (NOx, SOx, PM, Ozone, and Lead) – Without a quorum present, Mr. Terrill decided to forego his PowerPoint presentation regarding EPA's planned schedule to review the

Ambient Air Quality Standard for NOx, SOx, and ozone. He provided Council with a copy of his presentation and led discussion.

Transcript pages 45 - 56

Division Director's Report – Mr. Terrill and Ms. Botchlet-Smith to provide an update on the Title IV audit requested by the Council.

Transcript pages 39 - 45

New Business - Any matter not known about or which could not have been reasonably foreseen prior to the time of posting the agenda. One member of the public did comment on an issue not on the agenda.

Adjournment – Mr. Branecky adjourned the meeting adjourned at 10:15 p.m. The next regular meeting is scheduled for Wednesday, January 20, 2010, in Oklahoma City, Oklahoma.

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

1 DEPARTMENT OF ENVIRONMENTAL QUALITY

2 STATE OF OKLAHOMA

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8 TRANSCRIPT OF PROCEEDINGS

9 OF THE AIR QUALITY COUNCIL

10 REGULAR MEETING

11 HELD ON OCTOBER 21, 2009, AT 9:00 A.M.

12 IN OKLAHOMA CITY, OKLAHOMA

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22 MYERS REPORTING SERVICE
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23 P.O. Box 721532
Oklahoma City, Oklahoma 73172-1532
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1 MEMBERS OF THE COUNCIL

2 LAURA LODES - CHAIRMAN - ABSENT

3 DAVID BRANECKY - MEMBER

4 JERRY PURKAPLE - MEMBER - ABSENT

5 JIM HAUGHT - MEMBER

6 SHARON MYERS - MEMBER

7 PETE WHITE - MEMBER

8 MONTELLE CLARK - MEMBER - ABSENT

9 GARY COLLINS - MEMBER - ABSENT

10

11 STAFF PRESENT

12 MYRNA BRUCE - SECRETARY

13 EDDIE TERRILL - DIVISION DIRECTOR

14 BEVERLY BOTCHLET-SMITH - AQD

15 CHERYL BRADLEY - AQD

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PROCEEDINGS

MR. BRANECKY: Good morning. Let's go ahead and get started this morning. Before we do get started, just wanted to remind you to mute or turn off your cell phones. And we have a little bit of a change in procedures today, we do not have a quorum. We thought we would but at the last minute we were not able to make a quorum. So we will not be voting on the agenda items. We will have discussion but we will not vote. We will not vote on a couple of the other things, the Minutes or the Election of the Vice-Chair.

So with, that we'll just go ahead and skip the -- well let's do roll call, Myrna.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: Montelle Clark is absent. Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Pete White.

MR. WHITE: Present.

MS. BRUCE: Absent are Bob Lynch, Gary Collins, Laura Lodes.

David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: And like David said, there's no quorum.

MR. BRANECKY: Thank you, Myrna.

We'll skip the election of Vice-Chair, we'll save that for the January meeting; and skip the approval of the Minutes. We will -- we'd like to discuss though, since this is our last meeting of this year, the schedule for our next year's meetings. You have a list before you of proposed dates and locations. Like I said, we will not officially vote on those but we can have some discussion. I think the intent is to take this discussion and then contact the other Council Members and have discussion with them and if we're all in agreement then we will go with those dates. Is that right, Eddie?

MR. TERRILL: Yes. The reason this is a formal vote is it's kind of the

1 customary way we've done things. I don't
2 know that we even have to have the Council
3 approve dates. We could set dates for the
4 Council as an Agency, but because Council -
5 - it takes up their time and it's a
6 voluntary activity, that we've always just
7 as a matter of course allowed them to -- or
8 encouraged them to set their own dates and
9 that sort of thing. So if there's a
10 consensus with this group that these are
11 the dates and locations, then we will take
12 that to the Members that couldn't be here
13 today and I'm sure that'll be fine, and
14 we'll make the recommendation to the
15 Secretary of State before the November 15th
16 deadline, I believe it is.
17 MR. BRANECKY: All right. Do I
18 have any discussion? Everybody okay with
19 the dates? Okay.
20 MS. BRUCE: Do you want to
21 mention the dates for the record.
22 MR. BRANECKY: Okay. For the
23 record, we have -- the dates are January
24 20, 2010, in Oklahoma City; April 21, 2010,
25 in Tulsa; July 21, 2010, in Oklahoma City;

1 and October 20, 2010, in Oklahoma City.
2 MR. TERRILL: And just for the
3 record also, we try to time these so that
4 they sort of coincide with the
5 Environmental Quality Board. And the dates
6 for the Environmental Quality Board next
7 year are Friday, February 26th in Oklahoma
8 City; Tuesday, June 15th in El Reno;
9 Tuesday, August 24th in Norman; and
10 Tuesday, November 16th in either Stillwater
11 or Tulsa.
12 And by the way, if the Council
13 decides for whatever reason as we get into
14 the next year that they want to move one of
15 these locations, we can do that. We just
16 got to make -- give the formal notice. But
17 we will turn these in unless there's a
18 reason to change the times from some of the
19 other Council Members and get this turned
20 in.
21 MR. BRANECKY: Okay. Thank you,
22 Eddie.
23 All right. If there is no further
24 discussion on that, we'll move on to what I
25 have as Item 6, which are resolutions from

1 Mr. Purkaple and Mr. Treeman; both those
2 gentlemen have resigned from the Council.
3 They've gotten their priorities straight,
4 they have retired from their jobs and -- I
5 know Rick's off fishing some where.
6 MR. TERRILL: Actually Rick's not
7 retired, I think Rick's working for
8 Chesapeake.
9 MR. BRANECKY: Oh, he retired
10 from his --
11 MR. TERRILL: He retired from his
12 other job and took another one and I'm not
13 sure what he's doing but it's something to
14 with environment and safety. But Rick was
15 on the Council from '99 until just last
16 year; and then Jerry was not quite as long,
17 he came on in 2005, but they both provided
18 a lot of expertise and gave up their time
19 and they were real helpful and I really
20 appreciate the service that both of them
21 gave. And all we can do is give them a
22 little plaque and a resolution thanking
23 them for their efforts and tell them how
24 much we appreciate them. So we'll do that
25 and pass that along to them. We'll

1 probably invite them -- we were going to
2 this time but I knew Jerry was not going to
3 be available and we couldn't get a hold of
4 Rick, but we may invite them or we will
5 invite them to come to the next Council
6 meeting and do this formally. But if we
7 don't, I wanted to say if we don't get to
8 see them in person again at one of the
9 Council meetings, how much the staff really
10 appreciated working with them and I wish
11 them well in their future endeavors.
12 MR. BRANECKY: Okay. All right.
13 Thank you, Eddie.
14 With that, we will move into the
15 public rulemaking hearing portion of the
16 meeting. And again like I said earlier, we
17 will not be voting on any of the rules but
18 we will allow for a discussion of those
19 rules.
20 Beverly.
21 MS. BOTCHLET-SMITH: I wasn't
22 real sure you still wanted me to announce
23 these.
24 Okay. The first thing on our Agenda
25 was OAC 252:100-17. This is Incinerators,

1 Part 1 and Part 3.
2 Appendix A. Allowable Emissions for
3 Incinerators with Capacities in Excess of
4 100 pounds per hour. In this section we're
5 proposing to revoke.
6 And then there's a new Appendix A.
7 And then Appendix B. Allowable
8 Emissions for Incinerators with Capacities
9 less than 100 pounds per hour we're
10 proposing to revoke.
11 Presentation for this will be done
12 by Diana Hinson of our staff.
13 MS. HINSON: Good morning, Mr.
14 Chairman, Members of the Council, ladies
15 and gentlemen. I'm Diana Hinson,
16 Environmental Programs Specialist in the
17 Rules and Planning Section of the Air
18 Quality, in the Department of Environmental
19 Quality.
20 The Department is proposing to amend
21 Parts 1 and 3 of OAC 252:100-17,
22 Incinerators, to remove obsolete language
23 and clarify the remaining provisions. In
24 addition, the Department is proposing to
25 revoke Appendix A, Allowable Emissions for

1 Incinerators with Capacities in Excess of
2 100 pounds per hour; and Appendix B,
3 Allowable Emissions for Incinerators with
4 Capacities Less than 100 pounds per hour.
5 The current provisions of both
6 appendices are proposed to be combined into
7 a new Appendix A, Allowable Particulate
8 Matter Emission Rate for Incinerators.
9 Notice of the proposed rule changes
10 was published in the Oklahoma Register on
11 September 15, 2009 and comments were
12 requested from members of the public.
13 Comments were received by email yesterday
14 from EPA.
15 This is the second time the proposed
16 revision has been presented to the Council.
17 Due to the lack of a quorum, staff plans to
18 present these changes at the January
19 Council meeting.
20 MS. BOTCHLET-SMITH: Oh, I'm
21 sorry. I'm thinking ahead to what I've got
22 to talk about, I'm sorry.
23 Does the Council have any questions
24 for Diana?
25 MR. BRANECKY: I have a couple

1 just to help me understand the process.
2 I'm not familiar with incinerators.
3 But under 17-4, Particulate Matter,
4 on Page 2, that last sentence that says
5 "solid fuels charged will be considered
6 part of the refuse waste."
7 What is solid fuels charged? What
8 is that? Would you explain to me what that
9 means?
10 MS. HINSON: The solid fuels that
11 are charged are what is entered into the
12 combustion chamber.
13 (Microphone adjustment)
14 MS. HINSON: It's the amount of -
15 - that's the amount of substance that is
16 entered into the chamber.
17 MR. BRANECKY: All right. Then
18 on the next 17-5, Incinerator Design and
19 Operation Requirement. That first sentence
20 -- that looks like a long sentence, it says
21 "combustion device adequately designed and
22 operated to fully combust gaseous and
23 particulate matter suspended in exhaust
24 gas."
25 Is it possible to fully combust

1 everything? Do you see where it references
2 "fully"? Is that possible?
3 MS. HINSON: It is possible to
4 fully combust everything but sometimes due
5 to excess air, oxidation isn't complete --
6 or combustion isn't complete.
7 Cheryl, do you have anything to add?
8 MS. BRADLEY: We'll take that
9 into consideration. It's a very valid
10 point and perhaps we need to use another
11 term to modify adequately or some how
12 define it more sufficiently. Because, in
13 fact, full combustion is not a tank full.
14 MR. BRANECKY: Thank you. One
15 last question on 17-5.1, the Alternative
16 Incinerator Design Requirements. I was
17 just curious, we have reference where the
18 Division can -- may approve an alternate
19 incinerator design but then the proposed
20 incinerator demonstration to the
21 satisfaction of the Director.
22 Is there a reason we have Division
23 and Director? Shouldn't it both be
24 Director or do we want to allow the
25 Division to approve the design or does that

1 have to come from the Director? See what
2 I'm saying? We've got the Division may
3 approve an alternative incinerator design
4 if the owner or operator proposes a
5 incinerator demonstrations to the
6 satisfaction of the Director.
7 MS. BRADLEY: It appears that the
8 Director should be the appropriate approver
9 in each case. He can delegate his approval
10 authority down the chain, but seems to be
11 we should change "Division" to "Director".
12 MR. BRANECKY: Okay. I mean it
13 originally was Director and it got changed
14 to Division, so I didn't know if that was
15 intentional or --
16 MS. BRADLEY: I believe the
17 concern was that we needed to provide for
18 inherent process aspects and this was our
19 attempt to address someone other than Eddie
20 being able to sign off on the design, such
21 as Dawson Lassiter the Chief Engineer. We
22 probably need to discuss it some more but
23 at this point it would be clearer and more
24 consistent for us to have both listed as
25 Director.

1 MR. BRANECKY: Thank you. That's
2 all I have.
3 MS. BOTCHLET-SMITH: Any other
4 questions from the Council? I didn't have
5 any notice that anyone from the public
6 wished to comment on this at this time,
7 David.
8 MR. BRANECKY: Okay.
9 MS. BOTCHLET-SMITH: So the next
10 the next item on the Agenda is OAC 252:100-
11 17, Incinerators, Part 4.
12 And Ms. Diana Hinson of our staff
13 with also present this rule.
14 MS. HINSON: The Department is
15 proposing to add a new Part 4, Biomedical
16 Waste Incinerators, to Subchapter 17,
17 Incinerators.
18 The new part will incorporate the
19 Best Available Control Technology for this
20 type of incinerator originally established
21 under the authority of Subchapter 41,
22 Control of Emission of Hazardous and Toxic
23 Air Contaminants, which was revoked in
24 2007.
25 In addition, the Department has

1 identified regulatory gaps in Subchapter
2 17, Part 7, Hospital, Medical and
3 Infectious Waste Incinerators, when
4 pathological waste, low-level radioactive
5 waste, and chemotherapeutic waste is
6 incinerated. The addition of Part 4 will
7 reestablish the Department's authority to
8 require design and emission standards for
9 biomedical waste incinerators and close the
10 regulatory gap in Part 7 of Subchapter 17.
11 Notice of the proposed rule changes
12 were published in the Oklahoma Register on
13 September 15, 2009 and comments were
14 requested from members of the public.
15 Comments were received by email yesterday
16 from EPA.
17 Once again, due to lack of a quorum,
18 staff plans to present these changes at the
19 January Council meeting.
20 MS. BOTCHLET-SMITH: We'll take
21 questions from the Council.
22 MR. HAUGHT: Okay. I've got a
23 question. Design and operation in 17:10-2,
24 it talks about the detention time waste
25 came that containing the chemotrophic

1 waste. Is that -- (inaudible) -- that the
2 stuff that define term in your -- you want
3 to know what that implies to or is there
4 going -- is that going to cause some
5 confusion if that's not defined?
6 MS. HINSON: That's a good
7 question. We plan on changing that when we
8 go ahead and bring this back to the Council
9 in January. And we'll define it -- we'll
10 change that term back to the
11 chemotherapeutic waste which is defined.
12 FEMALE: Diana.
13 MS. HINSON: Yes?
14 FEMALE: Please mention that was
15 also on the EPA's comments.
16 MS. HINSON: Correct. That was
17 also one of EPA's concerns in their comment
18 that we received yesterday.
19 MR. BRANECKY: I have a question
20 and probably it's just my lack of
21 understanding again of waste incinerators.
22 But on Page 2, under Number 2, Particulate
23 Matter, we're setting a standard of .08
24 grains per dry standard cubic foot. It
25 says while the incinerator is operating at

capacity. What if it's not operating at capacity? Or is it either zero or capacity? I mean, can it operate not at capacity? And if so, then what's the standard?

MS. BRADLEY: I believe we primarily used at capacity for defining a performance standard -- a measurable performance standard. Yes, an incinerator can be loaded at less than its capacity. We need to reevaluate the language there to make sure that there aren't some problems with it.

MR. BRANECKY: Right. Because right now it appears like that .08 only applies when it's operating at capacity. Otherwise, you wouldn't have a standard.

MS. BRADLEY: Now we would not know -- there would be no demonstration of compliance other than with the stack test to know that it's operating at 0.08 grains per -- or grams per dry standard cubic foot.

MR. BRANECKY: So if you operate at less than capacity, are you assuming

1 then that the concentration is lower than
2 .08, it won't be any greater -- never be
3 any greater?
4 MS. BRADLEY: It perhaps could be
5 but I think that's sort of an unknown
6 factor. We need to go back and speak with
7 engineering to make sure that the
8 assumption is true that operating or
9 loading less than the maximum amount and
10 operating at less than full capacity would
11 in fact be -- result in emissions that are
12 less than that.
13 MR. BRANECKY: Okay, good. Thank
14 you.
15 MS. BOTCHLET-SMITH: Any other
16 questions from the Council?
17 And David, I didn't have any intent
18 to comment on this rule from the public
19 either.
20 MR. BRANECKY: Thank you.
21 MR. HAUGHT: I've got one, if I
22 can. On the last part of that on three on
23 the CO, I made a note here it refers to
24 when corrected to standard conditions, is
25 that the standard temperature and pressure

1 we're kind of use to or -- what does
2 standard conditions -- what conditions
3 apply at that point?
4 MS. HINSON: That is indicated to
5 be what we are use to, you know, for
6 scientific methods. However, maybe we
7 should take that into consideration and
8 include that so there wouldn't be any
9 question.
10 MS. BOTCHLET-SMITH: Okay. Any
11 other questions on this item from the
12 Council?
13 Hearing none, I'll move on.
14 The next item is OAC 252:100-31.
15 This is Control of Emission of Sulfur
16 Compounds.
17 Mr. Brooks Kirlin will be giving the
18 staff presentation today.
19 MR. KIRLIN: Mr. Chairman,
20 Members of the Council, ladies and
21 gentlemen. I m Brooks Kirlin, I am an
22 Engineer with the Rules and Planning
23 Section of the Air Quality Division. I
24 might point out on the last question about
25 standard conditions, there actually is a

1 definition of standard conditions in
2 Subchapter 1, Definition Section.
3 And it's 68 degrees Fahrenheit, 20
4 degrees centigrade, and gas pressure at
5 14.7 pounds per square inch absolute.
6 Okay, back to 31.
7 The Department is proposing to amend
8 the requirements of Subchapter 31, Control
9 of Emission of Sulfur Compounds, and to
10 clarify the existing language. You may
11 recall that Mr. Max Price made a brief
12 preliminary presentation on Subchapter 31
13 at the April Air Quality Advisory Council
14 meeting, and no action was requested by the
15 Council at that time.
16 The proposal was -- a formal
17 proposal was included on the Agenda for the
18 July Council Meeting, which was cancelled.
19 Changes have been made to that proposal
20 following additional staff review. This
21 would be the first time for the Council to
22 consider the amendments.
23 Rules controlling emissions of
24 sulfur oxides were first effective on July
25 1, 1972 as of the Health Department

1 Regulation 16. The 1972 rule contained
2 ambient sulfur dioxide or SO2 standard for
3 all facilities that existed on that
4 effective date. These limits are
5 substantially the same as those that are
6 found in the current rule under 31-7,
7 Subsection (a).
8 The 1972 rule also set SO2 and
9 sulfuric acid mist emission limits for new
10 sulfuric acid plants, and SO2 emission
11 limits for new fuel-burning equipment,
12 sulfur recovery plants, nonferrous smelters
13 and paper pulp mills. Again, process
14 equipment installed after the effective
15 date of July 1, 1972 would be considered
16 new for that purpose.
17 After the rule first became
18 effective since then it was -- has been
19 modified ten times prior to 2002, when the
20 rule was substantially rewritten to its
21 present form.
22 The rule was again modified slightly
23 in 2003 to clarify that the ambient SO2
24 standards apply to the entire facility, not
25 just individual units within the facility.

1 The rewrite in 2002 corrected many
2 of the confusing aspects of the rule, but
3 there has been some confusion with regard
4 to existing and new sources. This proposal
5 actually inserts the applicable dates in
6 the individual sections rather than relying
7 on the definitions for "new facility" and
8 "existing facility" that are currently in
9 Subchapter 31.
10 One of the more substantial changes
11 would require that all new and existing
12 sources of SO2 meet the same ambient air
13 standards under Section 31-7. Currently,
14 these standards apply to those facilities
15 that existed when the rule first went into
16 effect on July 1, 1972. The current
17 standards also apply to any petroleum and
18 natural gas processing facility built or
19 modified after December 31, 1974. The
20 proposed change would require all
21 facilities, new and existing, to meet these
22 same standards.
23 As part of -- along with that change
24 to Section 31-7, the Department is
25 proposing to drop the five-minute SO2

1 ambient air standard. We believe that the
2 one-hour, three-hour, 24-hour, and annual
3 standards are adequately protective in
4 place of the five-minute standard. In
5 addition, it has been found difficult for
6 our permittees and our permit writers to
7 demonstrate compliance with that
8 five-minute standard under current modeling
9 and monitoring protocols.
10 An additional proposed change would
11 add requirements under Section 31-25 for
12 new fuel-burning equipment that use
13 alternative fuel. And a definition for
14 "alternative fuel" would also be added to
15 the definition section under 31-2.
16 Additional change, adding a new
17 Section 31-4 has also been proposed, to
18 avoid a potential double reporting
19 requirement on excess emissions that are
20 covered by both Subchapter 31 and an
21 applicable 40 CFR Part 60 standard. The
22 SOx or sulphur standards for new sources in
23 Subchapter 31 are derived from the emission
24 standards contained in these Part 60 rules.
25 One result is that in some cases when

1 facilities excess emission under Subchapter
2 31 would also be an excess emission under
3 an identical federal emission standard.
4 The new Subchapter 9 has alternative
5 reporting provisions that accommodate the
6 excess emissions reporting requirements for
7 the 40 CFR Part 60 rules. However, these
8 alternative reporting provisions aren t
9 currently available for the identical or
10 simultaneous Subchapter 31 excess emission.
11 So the new Section 31-4 has been added to
12 avoid requiring double reporting by
13 extending that alternative excess reporting
14 option to these sources.
15 Notice of the proposed rule changes
16 was published in the Oklahoma Register on
17 September 15, 2009. We received informal
18 comments from EPA in an email yesterday,
19 and a copy is included in your folder. We
20 intend to respond to those comments
21 shortly.
22 Due to the lack of a quorum, staff
23 will re-propose these changes for
24 consideration at the January Air Quality
25 Advisory Council meeting. Thank you.

1 MS. BOTCHLET-SMITH: Are there
2 any questions for Mr. Kirlin from the
3 Council?
4 MR. HAUGHT: In the 31-7, by
5 deleting Section (d), paragraph (d), do we
6 take away or are there other provisions for
7 facilities to demonstrate compliance? I
8 would assume the majority of that now is
9 not by actual measurement but by dispersion
10 modeling balance those other things. Are
11 we removing that? What's the option to
12 demonstrate compliance assurance at this
13 point if we strike that?
14 MR. KIRLIN: To my understanding
15 I don't think -- I think we have other
16 provisions. This is the approach that's
17 normally taken, like I said, by modeling by
18 measurements and --
19 MR. HAUGHT: Well, I didn't know
20 what the driver was to remove that
21 compliance assurance paragraph.
22 MR. KIRLIN: I believe it's
23 considered covered in other areas of the
24 rules, that it's -- you know, like I said
25 the option is there. I mean that's the

1 general approach in all of the rules. Like
2 I said unless otherwise stated.
3 MR. HAUGHT: So you think that's
4 still allowed?
5 MR. KIRLIN: I believe so.
6 MR. HAUGHT: That this
7 (inaudible) still -- that facilities would
8 demonstrate compliance using those tools.
9 MR. KIRLIN: Right.
10 MS. BRADLEY: Yes. The analysis
11 that was conducted prior to revising the
12 rule determined that it was covered in
13 other areas of the rule. Subchapter 43
14 includes the cam-type requirements or
15 credible evidence to determine compliance.
16 We've encountered problems, we've had
17 compliance requirements in specific
18 subchapters that were general and not
19 having the subchapters open at the same
20 time, so this is a streamlining maneuver.
21 However, with receiving your
22 comment, we've got some more time and we
23 will go back and evaluate that thoroughly
24 to make sure that it is adequately
25 addressed in the more general requirements

1 in Subchapter 43.
2 MR. HAUGHT: Okay.
3 MR. BRANECKY: In the Title on
4 Part 2 it says ambient air concentration
5 limits or impacts for new and existing
6 equipment sources or facilities; yet in the
7 context of paragraph 2 you only talk about
8 facility standards.
9 So do we need to strike equipment
10 and sources from that title? Because the
11 standards that you talk about are for
12 existing facilities or any facility.
13 MR. KIRLIN: That sounds
14 appropriate, I think.
15 MR. BRANECKY: It's probably just
16 an old text that's been in there since '72.
17 MR. KIRLIN: Probably so.
18 MR. BRANECKY: Okay.
19 MR. KIRLIN: It's a good
20 suggestion.
21 MR. BRANECKY: And can you
22 refresh my memory -- I know this has been
23 around for 30, 40 years, why do we have
24 these almost like increment consumption
25 numbers for SO2 for existing or for

1 facilities? They're not ambient
2 concentrations, you can't increase the
3 ambient concentration by so much. So why
4 do we have that to begin with? We've got
5 an ambient standard. So why do we need
6 these numbers in here, the 1,200 and 650,
7 and the 130?
8 Can we just say not to exceed the
9 ambient concentration?
10 MS. BRADLEY: We're back to an
11 instance of rules that predate federal
12 standards. And the reason -- they're in
13 the SIP now and it will be difficult to
14 remove them. We believe they have served a
15 purpose in Oklahoma. We do not have an SO2
16 issue that we're dealing with, no non-
17 attainment areas.
18 If, in fact, we decided to remove
19 them from the SIP we would have to
20 demonstrate to EPA that it would -- the
21 removal of these quasi increment standards
22 would not have a detrimental effect on air
23 quality.
24 Does that answer your question,
25 David?

1 MR. BRANECKY: Yeah.
2 MS. BRADLEY: That essentially
3 they are historical standards. They appear
4 to have -- they may be linked to the fact
5 that we do not have an SO2 problem in
6 Oklahoma. And we do apply them in a
7 permitting process as an increment.
8 MR. BRANECKY: Well why couldn't
9 we just say that emissions from facilities
10 cannot cause and contribute to a violation
11 of the ambient air quality standard?
12 MS. BRADLEY: And that --
13 MR. BRANECKY: I mean that's
14 already there.
15 MS. BRADLEY: That's allowable,
16 right that is.
17 MR. BRANECKY: I still don't
18 quite -- I know this has been there for a
19 long time but why do we need that? I know
20 it's probably difficult to take out but I
21 just don't see -- we've got an ambient
22 standard, just tie everything to the
23 ambient standard.
24 MS. BRADLEY: If, in fact, EPA
25 moves forward with a one-hour standard for

1 SO2, if -- a lot of the decision for
2 Subchapter 31 may, in fact, be tied to
3 future EPA actions to tighten the existing
4 standard and we'll need to take those
5 factors into consideration in revising or
6 addressing Subchapter 31 in the future.
7 And it looks like Eddie wanted to
8 say something.
9 MR. TERRILL: Yes, I was going to
10 add that we may not bring this back in
11 January. EPA is suppose to propose -- a
12 notice for proposed rulemaking on November
13 16th of this year. And as part of that, we
14 anticipate they're going to recommend a
15 one-hour SO2 standard. And if they do that
16 then we will probably see how that would
17 impact this rule and we probably would take
18 a look at these and see if there is a way
19 that we can transition into a more modern
20 rule, if you will, to reflect what EPA --
21 the direction EPA's moving with their
22 Ambient Air Quality Standards.
23 So your point is well made. The
24 reason that we don't try to take it out --
25 I don't know how much purpose it actually

1 serves but to remove something like this
2 requires a tremendous amount of work, and
3 it's just not been worth it to us to try to
4 do that. But if --
5 MR. BRANECKY: But industry is
6 still being held to this standard, so
7 they're going to have to demonstrate
8 compliance with this standard.
9 MR. TERRILL: That's true, I
10 understand.
11 MR. BRANECKY: On the other side,
12 we have people --
13 MR. TERRILL: I understand. But
14 I don't even know if we could anyway. I'm
15 not sure. But the opportunity will be
16 there if EPA establishes an one-hour
17 standard or reopens the SO2 standard for
18 possible revision, the discussion
19 opportunity will be there to take these
20 out. And we will do that.
21 MR. BRANECKY: Okay.
22 I've got a couple more questions.
23 On next -- on Part 5, 31-25 on Page 4, we
24 talk about emissions of SOx, S-O-X, I guess
25 I'm not use to seeing SOx being used in the

1 rule. All I've ever seen is SO2 and we --
2 in fact you say emissions of SOx measured
3 as SO2. Why don't we just say SO2? Why do
4 we call it -- why do we pull out NOx if
5 they are SOx at this point in time.
6 MR. KIRLIN: Well, I believe that
7 historically that -- and I'm not sure why
8 it looks like the old -- the original
9 discussion was for -- I mean the rules was
10 to control all obviously different sulfur
11 oxides, and the old language does say
12 sulfur oxide emissions. And just the SO2
13 is the -- I know that the standard now is
14 SO2 --
15 MR. BRANECKY: All the standards
16 are SO2.
17 MR. KIRLIN: Right. I don't know
18 whether we want to -- if there's a reason
19 to continue with that.
20 MR. BRANECKY: I'm just not used
21 to seeing SOx.
22 MR. KIRLIN: Right. I know --
23 maybe that's an artifact to consider
24 looking at.
25 MR. BRANECKY: All right.

1 Page 6, (4) alternative fuel --
2 4(B), that paragraph -- or no, it's
3 actually (C). The use of an alternative
4 fuel is not disallowed.
5 Can we just say allowed. Is not
6 disallowed the same thing as allowed? I
7 had a hard time --
8 MR. KIRLIN: I know, my mind was
9 struggling with that one. I had to figure
10 that one out.
11 MR. BRANECKY: Yes.
12 MR. KIRLIN: I suppose that --
13 it's more likely that -- I mean probably
14 the reason why we came up with this term is
15 that, that the standard is more likely to
16 say this is not allowed versus alternative
17 fuel.
18 MR. BRANECKY: Are we saying not
19 allowed or not disallowed? Not disallowed
20 is the same as allowed, right?
21 MR. KIRLIN: Absolutely, true.
22 However, I -- fewer -- I guess the term --
23 the alternative fuels will probably only
24 appear in the -- it might only appear if it
25 was disallowed. In other words you can't

1 do it.

2 MR. BRANECKY: That's right.

3 MS. BRADLEY: That's a double

4 negative, I believe.

5 MR. KIRLIN: Double negative.

6 MR. BRANECKY: Yeah, I think

7 that's what you call it.

8 MS. BRADLEY: I think that that

9 is -- I believe that's a grammar mistake

10 that needs to be corrected.

11 MR. KIRLIN: Okay. Yes.

12 MR. BRANECKY: Okay. One more.

13 Page 8, under (3), Installation,

14 calibration and maintenance of emission

15 monitoring systems. We talk about the

16 confidence level of 95 percent and accurate

17 within plus or minus 20 percent, seems like

18 an awful big range. Is that also an old

19 artifact? I mean, I would think that the

20 instrumentation now days is a lot more

21 accurate than plus or minus 20 percent. So

22 that may be something you may just want to

23 look at.

24 MR. KIRLIN: We can take look in

25 Appendix B and other sources and see what

1 is says. The 20 percent is the existing
2 language, but that's a good catch.
3 MR. BRANECKY: All right. That's
4 all I've got. Thank you.
5 MS. BOTCHLET-SMITH: Any other
6 questions? Any other questions from the
7 Council? Okay.
8 Hearing none, David, once again we
9 didn't have any comments from the public on
10 this one.
11 The next item on the Agenda is OAC
12 252:100 Appendix Q. This is an
13 incorporation by reference.
14 Ms. Nancy Marshment will give the
15 staff presentation.
16 MS. MARSHMENT: Hello. Good
17 Morning, Mr. Chairman, Members of the
18 Council, ladies and gentlemen. My name is
19 Nancy Marshment and I am an Environmental
20 Programs Specialist with the Air Quality
21 Division.
22 The Department is proposing to
23 revoke the current Chapter 100, Appendix Q,
24 Incorporation by Reference, and adopt a new
25 Appendix Q.

1 This proposal is part of the annual
2 update of Title 40, Code of Federal
3 Regulations, Incorporations by Reference in
4 Chapter 100.
5 The update will incorporate those
6 federal regulations listed in Appendix Q as
7 they existed on September 1, 2009. No
8 additional federal regulations that include
9 New Source Performance Standards or
10 National Emission Standards for Hazardous
11 Air Pollutants have been added; and any
12 amendments to standards listed will be
13 incorporated.
14 In previous years, several changes
15 have been made to Appendix Q to reflect new
16 standards for area source NESHAPs. EPA has
17 basically completed its review and at this
18 time, most of the new standards have been
19 issued, so this year's update to Appendix Q
20 is not as extensive. There are some
21 standards that are still pending, so
22 Oklahoma will likely have a few more to be
23 added in the future.
24 Staff proposes to remove Appendix S
25 to 40 CFR, Part 51 from the list of federal

1 regulations to be incorporated by reference
2 Appendix S would only come into play
3 in our permitting program if we had a
4 nonattainment area and if the
5 preconstruction review provisions of our
6 SIP do not meet EPA requirements. In that
7 event, EPA would either implement Appendix
8 S or delegate it to the State. In either
9 case there would be no need to incorporate
10 Appendix S into our rule by reference. In
11 other words, it appears that Appendix S
12 should not have been incorporated by
13 reference into Chapter 100 in the first
14 place.
15 Appendix S contains requirements
16 regarding the nonattainment NSR that
17 conflict with requirements in Part 9 of
18 Chapter 100, Subchapter 8 of DEQ's
19 Administrative rules. Specifically, there
20 are differences in the definitions of
21 "baseline actual emissions," "building,
22 structure, facility or installation,"
23 "major modification," "net emissions
24 increase" and "volatile organic compound
25 (VOC)." There are also differences in

1 Subchapter 8, section 55(c), Requirements,
2 when using projected actual emissions.
3 Notice was published in the Oklahoma
4 Register on September 15, 2009 for this
5 proposed change. The notice requested
6 written comments from the public and other
7 interested parties. No comments have been
8 received as of today.
9 Due to the lack of a quorum, staff
10 will be prepared to present this proposal
11 again at the January Council meeting.
12 MS. BOTCHLET-SMITH: Do we have
13 any questions from the Council today?
14 Hearing none, also we do not have
15 any indication anyone from the public
16 wanted to comment on this rule. So I guess
17 that would conclude the presentation of the
18 rules for today.
19 The next thing on the Agenda was
20 going to be a NAAQS update from Eddie.
21 However, I am going to go ahead and give
22 the Council an update on the Title 5 audit.
23 I just want to make sure Pete has an
24 opportunity to hear this before he has to
25 leave.

1 MR. TERRILL: Yeah. The reason
2 we want to flip this is I would like for
3 the Council that's here before someone has
4 to leave -- anyone has to leave, to kind of
5 hear the audit and for me to explain what
6 our next steps are going to be and then I
7 can brief Pete at a later date on the NAAQS
8 information.
9 MS. BOTCHLET-SMITH: If you
10 recall, I'm sure you do, when we presented
11 our fee case the day that we passed that at
12 the Council, Mr. Steve Thompson was here at
13 the meeting and there was some discussion
14 about -- between the Council and Steve and
15 a commitment was made to conduct an audit
16 of the Title 5 program. And to follow up
17 on that, David Dyke, former Director of the
18 Administrative Services Division here at
19 DEQ and Mr. Patrick Farris, our
20 Comptroller, met with John Arlogen
21 Associations which is an accounting firm
22 that specializes in governmental accounting
23 that also has been doing audits of some of
24 the programs in the Water Division here at
25 DEQ.

1 So they were engaged to conduct this
2 Title 5 audit. And they negotiated a
3 Letter of Engagement of the things that
4 they were going to do.
5 At that time Eddie and I, also were
6 invited in to the meeting -- I think the
7 finance committee had an opportunity for a
8 little bit of input here. And in the
9 Letter of Engagement with the accountant,
10 it was agreed that they needed -- in order
11 to conduct the audit they would first need
12 to get kind of a feel for how things are
13 structured here and they had some agreed
14 upon procedures of the different things
15 that they would do. Like, you know,
16 looking at how we do our budget, looking at
17 the flow of the cost from the time that we
18 incurred those costs till they were
19 documented and recorded in the accounting
20 records, they wanted to meet with some of
21 our staff, get an understanding of the
22 methodology that was used when we do our
23 time and effort recording.
24 They were doing, you know, the
25 audit-thing, they were looking -- they

1 requested a lot of documents, they reviewed
2 those documents, they met with staff and
3 they were also going to review the internal
4 program revenue and expenditure statements.
5 So we have just recently received a
6 draft report which is in your folder, it's
7 about five pages long and it kind of
8 summarizes the findings that the auditor
9 had.
10 I think some of the things that you
11 see in this report will be very similar to
12 information that either Eddie or I have
13 provided you over the years specific to our
14 T and E program and, you know, the way we
15 do our coding to ensure that the way staff
16 works is actually the way it is recorded in
17 the T and E.
18 There is some additional information
19 about how we do our budgeting process. Do
20 you want me to go through the details that
21 are in this report or do you want to just
22 read for yourselves?
23 MR. TERRILL: Normally, what we
24 would have done here is if we would have
25 gotten this early enough we would have

1 convened the finance committee, brief them,
2 and then we were going to report to the
3 Council with next steps. But since we got
4 this so late and I didn't want to wait
5 until the next Council meeting to roll this
6 out, I thought what we would do is just
7 kind of -- introduce the product, let the
8 Council take a look at it and then sometime
9 in the next two or three weeks convene a
10 meeting of the finance committee and maybe
11 even get some reaction from the Council to
12 this product. Because we know -- I think
13 we discussed before, this is just the first
14 step, and this is really not the product
15 that you all were looking for but it was a
16 product that the auditor felt was necessary
17 in order to get to what I'll call the meat
18 of the audit which is to verify that Title
19 5 funds are necessary and being spent the
20 way they are designed to be spent.
21 So I think that the easiest thing to
22 do is since we don't have five -- or four
23 of our Council Members, five if we get a
24 new one appointed -- what I would like to
25 do is let you all just take this with you;

1 be thinking about what else do you need to
2 see. I think we've got a pretty good idea
3 and we'll kind of enumerate that on what we
4 believe you want to see. But then if you
5 can get feedback to Beverly and I as to
6 other things you want to see, we'll convene
7 the finance committee and then draft either
8 a Letter of Engagement or -- whatever we
9 need to do to contract with the auditor to
10 do what I'll call the real audit of the
11 funds.
12 And so I think this was the
13 understanding that they would do a kind of
14 a preliminary, here's all the nuts and
15 bolts of how the time is kept; and the
16 accounting part of it. I think they need
17 to do that for themselves anyway so that
18 they had a better understanding of our
19 system so that they could actually do the
20 audit. So I'm hopeful that we can -- I
21 don't know if we'll have it done by January
22 with the holidays coming, but I want to get
23 this done because this has been out there
24 for a year and a half now and I know that
25 you all are expecting it and I don't think

1 it's going to show anything that we don't
2 expect, but I just want to get it done and
3 I know you all do too.
4 So if that's okay with those of you
5 that are here, if you'll just take a look
6 at it then we will be in contact with you
7 to get -- make sure we understand for sure
8 what you want in the next round and then
9 we'll convene the finance committee and
10 move forward with that.
11 MR. BRANECKY: Is that
12 acceptable? Yes.
13 MS. BOTCHLET-SMITH: Okay.
14 MR. TERRILL: All right.
15 MR. BRANECKY: Are you going to
16 be next?
17 MR. TERRILL: Yes. I'll be next.
18 I'll be real short. We were going to do a
19 power point presentation -- oh, and by the
20 way, we didn't provide copies of this part
21 of the audit to the -- we can, we didn't
22 bring a lot of them, we didn't really think
23 it would be of great interest to most of
24 you. When we do get the audit that really
25 shows the numbers part, that will be

1 available. We'll post this on our website
2 if anybody wants to take a look, but we
3 figured it was so dry that it probably
4 wouldn't mean anything -- I'm sure it won't
5 mean anything to the Council but hopefully
6 they'll -- this will be at least a first
7 step in what they were looking. But when
8 we actually do the nuts and bolts audit
9 we'll have that available and do that as a
10 full presentation. So that's the reason
11 you don't have copies of this in your -- in
12 the public part of this.
13 MS. BLOTCHET-SMITH: That is only
14 a draft report.
15 MR. TERRILL: Oh, that's right,
16 it is a draft report as well.
17 MS. BLOTCHET-SMITH: They can't
18 actually release the report until they
19 received a signed affidavit from our
20 comptroller, who's out of state. So all we
21 had available today was the draft report.
22 So we should receive the final within the
23 next couple of weeks.
24 MR. TERRILL: Okay. I'm going to
25 be real brief. I was going to do a formal

1 power point presentation and a lot of you
2 have already seen this. If you've been to
3 EFO, if you were at the Greenhouse Gas
4 Seminar that McAfee and Taft and Cardinal
5 put on last week, you kind of already heard
6 a summary of this. But I know the Council
7 hadn't -- or at least some of the Council
8 hadn't and since I've realized that we were
9 not going to have near a -- I didn't know
10 we weren't going to have a quorum until
11 this morning but I knew we would have
12 several gone, I didn't want to move
13 everybody around. So I elected not to do a
14 formal power point presentation, because
15 this is just informational. But I did want
16 the Council to be aware that there are some
17 -- a lot of things going on with EPA
18 relative to the National Ambient Air
19 Quality Standards that they may hear about
20 and we may bring rules to implement over
21 the next 12 to 18 months. I've provided
22 some additional information in here. And
23 by the way, we'll make this available to
24 anybody here. This is not in your packet
25 either, but if anybody wants a copy of what

1 I am going to talk about, we'll be glad to
2 get that to you.
3 I included a couple of slides that
4 talk about statutory requirements that EPA
5 looks at whenever they set both primary and
6 secondary Ambient Air Quality Standards.
7 And I'll just give the Council Members a
8 little bit of idea that they don't know,
9 this is the process that EPA goes through
10 before they review a standard and the
11 process they go through in that review
12 and then the process they go through for
13 recommending and implementing a new
14 standard. I've got a flow chart in there
15 of the natural view process. I thought
16 this was kind of confusing but this came
17 directly from EPA, so they must believe
18 it's a fairly understandable diagram. But
19 the main thing I wanted to give you
20 information on though was the schedule that
21 they have for reviewing the Ambient Air
22 Quality Standard for NOx, SOx, and ozone.
23 Through court order, EPA is going to be
24 looking at all of the Ambient Air Quality
25 Standards over the next two to six months.

1 They're going to do the NO2 standard --
2 it's already out actually in June of this
3 year; in January that'll go final -- with
4 that with their final recommendation. The
5 SO2 standard, which I mentioned before,
6 which will have the one-hour standard which
7 is something new from EPA will be proposed
8 on the 16th of November, with a final rule
9 out in June of next year.
10 EPA on their own has decided to
11 review the ozone standard, and I'll talk a
12 little bit more about that in just a
13 second. And then as part of this, they're
14 going to look at the secondary standard for
15 both NO2 and SO2, that'll be out in
16 February of 2010, and then with a final in
17 October of 2010 as well.
18 They're also going to be looking at
19 CO2 later in 2010, and they're going to re-
20 propose some changes of the particulate
21 matter standard in January of 2011. I'm
22 sorry, CO. I'm going to talk about CO2
23 just for a second, in a minute too.
24 Ozone, I report that both Oklahoma
25 City and Tulsa are in compliance with the

1 existing eight-hour standard of .075. We
2 had a really good summer, had a lot of good
3 voluntary efforts on the days that we
4 called our ozone alerts. So it worked out
5 really well this summer. Unfortunately,
6 EPA has provided notice that they intend to
7 -- or they're in the process of taking a
8 look at the data that was present a couple
9 of years ago when they set the .075
10 standard to determine if that needs to be
11 lowered. And I'm 99.9 percent sure that
12 they are going to lower that standard, it's
13 just a question of either, are they going
14 to go to .070 or .068 or it's possible, I
15 guess, that they could go as low as .065.
16 We're fairly certain that they are going to
17 move to a range that was recommended by
18 their Science Advisory Council which was
19 .060 to .070. That's what leads me to
20 believe that they -- depending on what the
21 science literature shows, they may go below
22 .070 but I really don't think they will
23 because that's going to pull in so many
24 areas of the country, as it is at .070 that
25 if you drop to anything much lower than

1 that, you're so close to background that
2 you really need to rethink what ozone --
3 what an ozone standard really means and --
4 because you're going to have a lot of areas
5 of the country that have no hope of ever
6 meeting this eight-hour standard.
7 But we anticipate that will be -- in
8 fact, they've pretty much given an
9 indication that they're going to release
10 that, I believe December -- yeah, December
11 21st of 2009 -- of this year they're going
12 to make a recommendation, and they're going
13 to have an expedite schedule to implement
14 this. They'll go final with it in October
15 of next year. The Governor will have to
16 make their recommendation in August. So
17 we're really going to only have one more
18 ozone season to average back in to whatever
19 the new standard might be. And I've
20 included a table that shows what the '06 to
21 '08 eight-hour average is and the '07 to
22 '09. And you can see both Tulsa and
23 Oklahoma City, Lawton and McAlester,
24 everything is in compliance with the .075;
25 but if we drop to .070, that means both the

1 metropolitan areas are out of compliance,
2 the Lawton area is right on the edge,
3 McAlester and Seiling are at .068 and .067.
4 So if we drop the standard to .065, for
5 instance, all the monitors in state of
6 Oklahoma for '07 to '09 the averaging
7 period that we are currently under will be
8 out of attainment. And, you know, we're
9 looking at two really good summers too in
10 '08 and '09. So if we have what I'll call
11 an average summer, we could have some
12 issues. But the good thing is -- positive
13 thing is, that the transport values that
14 we're seeing, as well as what we're seeing
15 internally from what we generate from our
16 stationary mobile sources continues to
17 decline. I believe even with unfavorable
18 weather, if you will, we would have shown
19 market increases over what we had seen when
20 looking at the same weather patterns in
21 previous years. So we are making progress,
22 but whether or not we will be -- make
23 enough progress to be able to comply with
24 whatever EPA proposes, remains to be seen.
25 If you EPA does drop the standard to

1 .070 or lower, that will also pull into
2 play the tribal monitors. There's eight or
3 ten -- about eight, I think, tribal
4 monitors scattered in the rural areas that
5 we take advantage of in making our ozone
6 forecast. They're a very valuable part of
7 our rural network, but they will have
8 issues in Adair, Cherokee, Kay, Ottawa
9 county; all those monitors are right at
10 .070. So we'll just have to see what EPA
11 proposes, and what that actual impact will
12 be. But I can virtually assure you we're
13 going to have issues in at least the
14 metropolitan areas.
15 Any questions about any of that?
16 That's really all I'm going to say about.
17 I just wanted to give the Council a little
18 bit of a flavor of where we're going with
19 it.
20 I do want to mention just for the
21 industry folks that are here that the
22 greenhouse gas reporting rule is out. In
23 fact, those of you who are probably aware
24 of that, it will apply to your sources, in
25 January of this year. You'll have to

1 report to EPA in, I believe, March of 2011.
2 As of right now we don't have any -- well
3 it's not a delegate able rule anyway, and
4 we don't have any intent -- if it was
5 delegate able, accept that without some
6 discussions with our staff and there's a
7 lot of things we would have to look at
8 before we could even begin to think about
9 implementing emissions inventory as part of
10 it. But right now it's not even open to
11 us.
12 One rule that has -- EPA has floated
13 but they have not actually proposed yet, is
14 the greenhouse gas tailoring rule. And
15 what this is, is their attempt to regulate
16 greenhouse gas through the Title 5
17 permitting process, in the event that
18 congress fails to either act with the
19 greenhouse gas legislation, or in some form
20 preempts EPA from moving forward. What
21 will trigger this would be any action by
22 EPA that regulates greenhouse gas as a
23 pollutant, and that is anticipated to
24 happen in -- sometime in February or March
25 of next year when they do the light duty

1 vehicle or -- light duty vehicle/light duty
2 truck rule in California. That's probably
3 going to be the trigger for this. And what
4 EPA is trying to do is figure out what
5 level of greenhouse gases is comparable to
6 the current PSD levels, and they've
7 determined that should be right at 25,000
8 tons per year and -- when we took a look at
9 this, we think they seriously
10 underestimated the number of sources that
11 are going to be pulled in at 25,000 tons.
12 But we'll have to see where this goes. But
13 if you've got any kind of a facility that
14 combusts a fuel, there's a very good chance
15 that you're going to be -- this rule will
16 cover you. And like I said, they have not
17 actually gone out for a -- proposed this
18 yet formally, but we anticipate that to
19 happen any day now. EPA is bringing in
20 states into DC in November to talk about
21 how they might implement this. The concern
22 we've got from an Agency standpoint -- and
23 I'm not even going to address the concerns
24 that industry would have because this would
25 be a terrific burden I think on them -- but

1 the big burden for us is do we have the
2 staff and the capabilities to address these
3 as a part of a Title 5 permit.
4 The way they have structured this
5 proposal is that -- it appears to us that
6 EPA is short circuited the normal step
7 process in this rule so that it becomes
8 applicable to us at the time the rule
9 becomes final without us actually making a
10 SIP submittal to accept delegation of the
11 rule.
12 If that were to happen and it were
13 to survive a challenge, then that would
14 also trip the Title 5 fee requirements for
15 CO2. So if you haven't been keeping an eye
16 on what's going on with EPA relative to
17 regulating greenhouse gases through Title
18 5, you really need to do that and you need
19 to take a look on their site at the -- do
20 we know if they have the tailoring rule up
21 on their site yet?
22 MALE: Yes.
23 MR. TERRILL: They do?
24 MS. BRADLEY: Yes, they do.
25 MR. TERRILL: Okay, then you need

1 to go to the EPA site and search around,
2 and you'll find what they are calling the
3 tailoring rule. It's 410 pages long give
4 or take, but it will have a significant
5 impact on how we do our business relative
6 to our Title 5 program, and also how the
7 regulated community does their business.
8 And there's just some different things
9 about this but we really believe that --
10 and we'll commenting on this rule relative
11 to the resources it's going to take us to
12 implement it, and the fact that EPA we
13 think is underestimated the number of
14 sources they're going to be captured by
15 this.
16 Phillip Fielder did a quick study
17 and we believe -- I want to get this right
18 -- that if you've got aggregate engines of
19 6,600 horse power that you generate enough
20 CO2 to be captured by this. So it's a
21 fairly significant rule and EPA, I think,
22 is very much intent on moving forward with
23 regulating greenhouse gas if Congress
24 doesn't do that.
25 So I'll be glad to answer any

1 questions or -- if there are any.
2 Otherwise I'm --
3 MR. BRANECKY: Done.
4 MR. TERRILL: -- done. Yes.
5 MR. BRANECKY: All right. Thank
6 you, Eddie.
7 Next Item is New Business and I
8 believe we have one request from the public
9 to make a comment on an issue that was not
10 on the agenda. And I think at this time we
11 will allow that comment to be made to the
12 Council.
13 (Sharon Tanksley made comment)
14 MR. BRANECKY: With that, if we
15 have no further business, we'll adjourn
16 until January. Thank you all.
17 (Meeting Concluded)
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2 C E R T I F I C A T E

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4 STATE OF OKLAHOMA)
) ss:
5 COUNTY OF OKLAHOMA)

6 I, CHRISTY A. MYERS, Certified
7 Shorthand Reporter in and for the State of
8 Oklahoma, do hereby certify that the above
9 meeting is the truth, the whole truth, and
10 nothing but the truth; that the foregoing
11 meeting was taken down in shorthand by me
12 and thereafter transcribed under my
13 direction; that said meeting was taken on
14 the 21st day of October, 2009, at Oklahoma
15 City, Oklahoma; and that I am neither
16 attorney for, nor relative of any of said
17 parties, nor otherwise interested in said
18 action.

19 IN WITNESS WHEREOF, I have hereunto
20 set my hand and official seal on this, the
21 2nd day of November, 2009.

22

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