

MINUTES
AIR QUALITY COUNCIL
January 18, 2006
707 North Robinson
Oklahoma City, Oklahoma

AQC Approved April 19, 2006

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. January 18, 2005 in 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 5, 2005. Agendas were posted on the entrance doors 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. Ms. Sharon Myers, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

<p>MEMBERS PRESENT Sharon Myers David Branecky Bob Curtis Gary Martin Jerry Purkapple Laura Worthen</p> <p>MEMBERS ABSENT Bob Lynch Don Smith Rick Treeman</p> <p>OTHERS PRESENT Christy Myers, Court Reporter Steve Mason, EQB</p>	<p>DEQ STAFF PRESENT Eddie Terrill Beverly Botchlet-Smith Scott Thomas Joyce Sheedy Pat Sullivan Kendal Stegmann Matt Paque Dawson Lasseter Philip Fielder Myrna Bruce</p>	<p>DEQ STAFF PRESENT Kent Stafford Rhonda Jeffries Max Price Leon Ashford Lee Warden Ray Bishop Morris Moffett Heather Bragg Nancy Marshment Gail George</p>
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Sign-in sheet is attached as an official part of these Minutes

Approval of Minutes Ms. Myers called for approval of the October 19, 2005 Minutes. Hearing no discussion, she called for a motion to approve the Minutes as presented. Mr. Curtis made the motion with Ms. Worthen making the second. Roll call as follows with motion passing.

Gary Martin	Yes	David Branecky	Yes
Jerry Purkapple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Sharon Myers	Yes

Election of Officers Ms. Myers called for nominees for Chair and Vice-Chair. Mr. Curtis nominated Sharon Myers to be retained as Chair and for David Branecky for Vice Chair. He made that a motion and Mr. Martin made the second. Roll call as follows with motion passing.

Gary Martin	Yes	David Branecky	Yes
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Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Sharon Myers	Yes

OAC 252:100-1 General Provisions [AMENDED] Mr. Scott Thomas, Program Manager, Rules and Planning Unit, gave an update on proposed changes in Subchapter 1, Definitions. He noted that the changes were non-controversial in nature and staff had received no comments; therefore, asked Council for approval and to forward to the Environmental Quality Board for adoption. Ms. Myers called for a motion. Mr. Curtis moved to approve as presented and Mr. Purkaple made the second. Roll call as follows with motion passing.

See transcript pages 7-13

Gary Martin	Yes	David Branecky	Yes
Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Sharon Myers	Yes

OAC 252:100-8 Permits for Part 70 Sources, Parts 1, 5, 7 and 9 [AMENDED]

Mr. Scott Thomas stated that the proposed amendments had been presented on July 20, 2005 and again on October 9, 2005. He outlined the changes then fielded questions and comments. After considerable discussion, Council decided to pass the rulemaking as proposed with a stipulation that Council would have additional time to review public comments received. Mr. Terrill agreed that if he received nothing further from the Council by February 3, the rulemaking, as presented, would be forwarded to the Environmental Quality Board for permanent adoption. Dr. Sheedy pointed out an error in the proposed rule where a term ‘actual to potential’ was swapped around. She advised that it would be corrected before forwarding to the Board. Ms. Worthen made motion to pass the rulemaking with the comment noted by Dr. Sheedy. Mr. Curtis made the second. Mr. Branecky wanted the motion with the stipulation; therefore, Ms. Worthen withdrew her motion and Mr. Curtis withdrew his second. Mr. Branecky then moved for adoption of the rule as presented with the DEQ allowing comments and concerns from the Council until February 3. Mr. Curtis made the second. Roll call as follows with motion passing.

See transcript pages 13 – 76

Gary Martin	Yes	David Branecky	Yes
Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Sharon Myers	Yes

OAC 252:100-8 Permits for Part 70 Sources, Part 11 [AMENDED]

Mr. Matt Paque, DEQ Attorney, provided staff’s recommendation to incorporate Best Available Retrofit Technology (BART) into Chapter 100. He indicated that states are required to submit Regional Haze State Implementation Plans outlining methods for improving visibility to EPA by December, 2007. He detailed the process of establishing BART emission limitations and advised of comments received to date. Staff’s recommendation was for Council’s approval of proposal as presented and to forward to the Environmental Quality Board for permanent adoption. After comments from Council and public, Ms. Myers called for a motion. Mr. Branecky moved for approval and Mr. Purkaple made the second. Roll call as follows with motion passing.

See transcript pages 77 - 92

Gary Martin	Yes	David Branecky	Yes
Jerry Purkaple	Yes	Bob Curtis	Yes
Laura Worthen	Yes	Sharon Myers	Yes

Division Director's Report Mr. Terrill mentioned that it is again time for receipt of Turnaround Documents providing reporting information. He added that staff would be bringing forth to the Council's April meeting rulemaking clarifying the definition of regulated pollutant. He related that he is the current president of STAPPA-ALAPCO, the national air directors association.

New Business - None

Adjournment – The meeting adjourned at 11:10 a.m. The next regular meeting is scheduled for April 19 at the OSU/Tulsa.

A copy of the hearing transcript and the sign in sheet are attached and made an official part of these Minutes.

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE AIR QUALITY COUNCIL
OF THE REGULAR MEETING
HELD ON JANUARY 18, 2006, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

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REPORTED BY: Christy A. Myers, CSR

MYERS REPORTING SERVICE
(405) 721-2882

MEMBERS OF THE COUNCIL

DAVID BRANECKY - MEMBER

BOB CURTIS - MEMBER

BOB LYNCH - VICE-CHAIR

GARY MARTIN - MEMBER

SHARON MYERS - CHAIR

JERRY PURKABLE - MEMBER

DON SMITH - MEMBER

RICK TREEMAN - MEMBER

LAURA WORTHEN - MEMBER

STAFF MEMBERS

MYRNA BRUCE - SECRETARY

EDDIE TERRILL - DIVISION DIRECTOR

JOYCE SHEEDY - AQD

MATT PAQUE - LEGAL

BEVERLY BOTCHLET-SMITH - AQD

PHILLIP FIELDER - AQD

PROCEEDINGS

MS. MYERS: At this point, I would like to call the meeting to order, please.

MS. BRUCE: For roll call, Gary Martin.

MR. MARTIN: Yes, here.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Here.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Here.

MS. BRUCE: David Branecky.

MR. BRANECKY: Here.

MS. BRUCE: Bob Lynch is absent for now, but we do expect him.

Bob Curtis.

MR. CURTIS: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Here.

MS. BRUCE: And absent for the record, Don Smith and Rick Treeman. We do have a quorum.

MS. MYERS: At this time, I would like to have discussion for Approval of the Minutes.

MR. CURTIS: I move that the Minutes be approved.

MS. WORTHEN: Second.

MS. MYERS: Okay. Myrna, we have a motion and a second.

Would you call roll, please.

MS. BRUCE: Gary Martin.

MR. MARTIN: Yes.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

MS. MYERS: The next item on the agenda is the Election of Officers for Calendar Year 2006. Any discussions, suggestions or whatever from Council?

MR. CURTIS: Yes. I would like to make a move that Sharon Myers be considered for Chair and for David Branecky for Vice-Chair.

MS. MYERS: Is that a motion?

MR. CURTIS: That's a motion -- make a motion.

MR. MARTIN: Second. Can you do that (inaudible).

MS. MYERS: You can do that, if that's what the Council wants to do. We have a motion and a second. Myrna.

MS. BRUCE: Gary Martin.

MR. MARTIN: Yes.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

MS. MYERS: At this point, we're ready to enter into the public hearing portion of the meeting and I will turn that over to Beverly.

MS. BOTCHLETT-SMITH: Good morning. I am Beverly Botchlett-Smith, Assistant Director of the Air Quality Division. And as such, I will be asking -- I'm sorry. I will be serving as the protocol officer for today's hearing.

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

These hearings were advertised in the Oklahoma Register for the purpose of receiving comments pertaining to the proposed OAC Title 252 Chapter 100 rules as listed on the Agenda and will be entered into each record along with the Oklahoma Register filing. Notice of meeting was filed with the Secretary of State on December 5, 2005. The Agenda was duly posted 24 hours prior to the meeting on the doors at the DEQ.

If you wish to make a statement, it's very important you complete the form at the registration table and you'll be called upon at the appropriate time. Audience members, please come to the podium for your comments and please state your name.

At this time, we will proceed with what's marked as Agenda Item No. 5 on the Hearing Agenda.

OAC 252:100-1 General Provision and OAC 252:100-8 Permits for Part 70 Sources, Parts 1, 5, 7 and 9 and Dr. Joyce Sheedy will be doing the staff presentation, and I believe she'll be assisted by Mr. Scott Thomas.

MR. THOMAS: I'm Scott Thomas, I'm the Program Manager for the Rules and Planning Section. Today I'll be sort of standing in and being Joyce's voice in reading our presentation, but Joyce and Matt and Phillip are much more expert in the rule, I think than I am, and they'll be here to answer any questions.

Madame Chairman, Members of the Council, ladies and gentlemen, in conjunction with the revision proposed to Part 7 and 9 of Subchapter 8 regarding New Source Review Sources, the Department is proposing amendments to Section 3 of Subchapter 1.

This is being done as a general cleanup of definitions in Parts 1, 7 and 9 of Subchapter 8 and to reduce redundancy. The definitions the Department proposes to move from Subchapter 8 to Subchapter 1 are used in more than one subchapter in Chapter 100.

Several years ago, the Department undertook a project to correct and simplify its rules and to remove redundant language. The proposed changes to Subchapter 1 are a continuation of that project. We propose to make the following changes to Subchapter 1.

One: We propose to move eight definitions from OAC 252:100-8-1.1 to Section 3 of Subchapter 1 without substantive changes. These definitions are:

- a. "act" - moved without modification.
- b. The "Administrator" - modified to include "unless specifically defined otherwise" which is not a substantive change.
- c. "EPA" - moved without modification.

- d. "National Emission Standards for Hazardous Air Pollutants" or "NESHAP" - moved without modification.
- e. "New Source Performance Standards" or "NSPS" - moved without modifications.
- f. "Part 70 permit" - moved without modification.
- g. "Part 70 program" - moved without modification.
- h. "Part 70 source" - modified by replacing "of this chapter" by "Subchapter 8" which is not a substantive change.

We propose to move the definition of "Lowest Achievable Emissions Rate" or "LAER" from OAC 252:100-8-51 to Section 3 of Subchapter 1 and update it for consistency with the federal definition of 40 CFR 51.165(a)(xiii).

We propose to add the definition of "federally enforceable" as found in 40 CFR 51.166(b)(17). This term is currently used several times in Chapter 100, but it's not defined.

We propose to add the definition of "Reasonable Available Control Technology" or "RACT" to Section 3 of Subchapter 1. This definition is currently defined at OAC 252:100-39-47(c), however, it has been updated for consistency with the federal definition found in 40 CFR 52.21(b)(54).

We also propose to replace the term "reviewing authority" in the definition of "complete" with "Director" for consistency of terms throughout the rule.

We propose to modify the definition of "stack" to make it clear that a pipe can be a stack, but a flare cannot.

Finally, we propose to modify the definition of "stationary source" by adding "subject to OAC 252:100" at the end of the definition. This is for clarity.

Many of these changes were proposed at the October 19, 2005 Air Quality Council meeting, but were withdrawn because the revision also included a change to the definition of VOC that has concerns and have not yet been resolved.

Although these changes are being proposed in conjunction with the changes to NSR proposed in Subchapter 8, they can be made in advance of the proposed Subchapter 8 revision.

We have received no written comments regarding the proposed changes to Subchapter 1.

Based on what we hope is the non-controversial nature of the proposed changes, we ask the Council to recommend these changes to the Environmental Board for adoption as a permanent rule. Thank you.

Does the Council have any questions?

MS. BOTCHLETT-SMITH: Do we have questions from the Council?

MR. BRANECKY: I have a comment from OG&E I guess was on our places when we came in, with a comment on subchapter -- or the definitions section. Has that been addressed?

MR. THOMAS: Joyce.

DR. SHEEDY: I'm not sure I know what part.

MR. BRANECKY: To Part 1, a letter dated January 4th.

MS. BOTCHLETT-SMITH: Joyce, you might turn your microphone on.

MR. BRANECKY: This is -- okay. maybe I'm wrong. This is under a different section. Okay. All right.

DR. SHEEDY: David, I think that comment maybe is for 8-1.1.

MR. BRANECKY: Okay. Under NSR, right?

DR. SHEEDY: Yes.

MR. BRANECKY: Yes.

MS. BOTCHLETT-SMITH: Any other comments on Subchapter 1 from the Council? We haven't received any notice of oral comment from the public.

MS. MYERS: If there's no additional discussion on comments, then I'll entertain a motion.

MR. CURTIS: I move that we adopt the staff's recommendations.

MS. MYERS: I have a motion. Do we have a second?

MR. PURKABLE: Second.

MS. MYERS: Myrna, would you call roll, please.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

MR. THOMAS: I guess we will go on to the other part -- portions of the hearing now on Subchapter 8, Part 70 Sources.

Madame Chair, Members of the Council, ladies and gentlemen -- are we going to do BART? Okay. We were planning to do BART first, but we can go ahead and go with NSR. I think we're -- from the discussions I've heard today on NSR, I think we may be trying to take some action on that, so we can go forward with NSR now.

Madame Chair, Members of the Council, ladies and gentlemen, the Department is proposing revisions to Parts 1, 5, 7 and 9 of Subchapter 8, Part 70 Sources. They were first proposed at the July 20, 2005 Air Quality Council meeting. The hearing was continued to the October 19, 2005 Air Quality Council meeting to allow changes to

the proposed rule required by the Decision of the U.S. Court of Appeals for the DC Circuit handed down on June 24, 2005.

The October 19, 2005 Air Quality Council meeting was continued to give the Department additional time to consider the comments received regarding the definition of "actual baseline emissions" and to allow additional time for consideration of the recordkeeping requirement.

We propose to incorporate the NSR reform update and clarify other portions of the rules regarding the PSD program and the NSR nonattainment program. Part 5 -- Part 5 concerns Permits for Part 70 Sources.

The Department proposes to revise the definition of "insignificant activities" in Sections 8-2 of Part 5 to reflect the changes to Subchapter 41 and the new Subchapter 42 regarding toxics air contaminants.

We also propose to move Paragraph (B) of this definition of "begin actual construction" from Section 8-1.1 to Section 8-2, since this definition applies only to Part 70 permitting.

Definitions. We are proposing to revise Section 8-1.1 of Part 1 of Subchapter 8. As discussed previously today in the presentation on proposed changes to Subchapter 1, in conjunction with the NSR reform revision, the Department proposes to move eight definitions from Section 8-1.1 and one definition from Section 8-51 to Subchapter 1 to reduce redundancy in the rules.

We also propose to delete two definitions from Section 8-1.1 because they are essentially the same as the definitions already in Subchapter 1. These terms are: "Building, structure, facility, or installation" and "fugitive emissions".

We propose to move eight definitions from Section 8-1.1 to Section 8-31 in Part 7 because they will apply only to Part 7 (PSD) in the revised rule. These are definitions of:

- a. "allowable emissions"

- b. "begin actual construction" from Paragraph (A)
- c. "Best Available Control Technology" or "BACT"
- d. "commence"
- e. "construction"
- f. "emission unit"
- g. "necessary preconstruction approval of permits"
- h. "potential to emit"; and
- i. "stationary source"

The definitions of "BACT", "emissions unit" and "stationary source" have substantive changes required by NSR reform.

We propose to move three definitions from Section 8-31 to Section 8-1-1 because these terms will be also used in the new Part 11 or BART. These are: "adverse impact on visibility", "natural conditions" and "visibility impairment".

The NSR reform finalized on December 31, 2002 changes the method of calculation of the emissions baseline for the purposes of determining whether or not a modification of a facility triggers NSR. Under the new rule, far fewer modifications will be classified as major modifications that require a PSD permit and installation of up-to-date pollution control equipment determined by BACT.

Court decision and EPA appeal. After the promulgation of the NSR reform, a suit was filed challenging the changes as inconsistent with the federal Clean Air Act. The U.S. Court of Appeals for the District of Columbia Circuit on June 24, 2005 vacated the parts of the rule dealing with cleaning units and PCPs or Pollution Control Projects and remanded the parts concerning recordkeeping.

On August 8, 2005 EPA requested the Court reconsider its ruling on the clean unit provision and clarify the ruling regarding PCPs. On December 9, 2006 the D.C. Circuit Court refused EPA's petition. At this time, we do not know whether -- know what further actions, if any, EPA will take on these issues.

We did a comparison demonstration. Phillip Fielder of the Air Quality Division has done a study of the effect of using a 5-year look back period for determining baseline actual emissions compared to the effect of using a 10-year look back. A copy of the results of the study were included in the Council packet.

Due to time constraints and available resources, only three major NSR sources were chosen for this study. These were nonelectric generating sources. The initial results of this study using emission inventory data, emission factors, the baseline actual emissions for case study one calculated using a 10-year look back period were significantly higher than that using a 5-year look back for PM10, NOx and SOx. There was no significant differences in case study two or case study three.

However, using current emissions factors in the hours of operation and production rates for annual emission inventory, the differences in the baseline actual emissions between the 5-year look back and the 10-year look back practically disappear. These results have caused us to review our petition on the use of the 10-year look back period for calculating baseline actual emissions, if current emission factors are used.

Unfortunately, these results were not available before the proposed rule was placed on the website and the Council packets were mailed.

Since the October 19, 2005 Air Quality meeting, we have received comments from Julia Beavers of OG&E, on letters dated December 15, 2005 and January 4, 2006; Environmental Protection Agency Region 6 in a letter of comments signed by David Neleigh, received via email on January 10, 2006 from Stanley M. Spruill; and comments from the Oklahoma Independent Petroleum Association by letter dated January 13, 2006, received via email on January 13, 2006 from Angie Burkhalter.

These comments and a summary of the comments and our responses will be made as part of the hearing record. Copies of the summary comments and responses have been given to the Council and are available for the public today. Some responses to

comments may be supplemented at a later date, because they were received just a few days before the meeting.

Based on the comments received and the results of the comparison study Phillip performed, we propose to make the following changes to the proposed rule contained in the Council packet and available at this meeting.

One: In the definition of "visibility impairment" in Section 8-1.1 on Page 7, we propose to add "light extinction" prior to "visual range".

Two: We propose to revise the definition of "baseline actual emissions" in Sections 8-31 on Pages 20 and 21 by adding a new Paragraph (A) which requires that baseline actual emissions be based on current emissions data and defines that term.

We propose to separate the requirements for electric utility steam generating unit now in Paragraph (B) for nonelectric utility steam generating units now in Paragraph (C), for electric steam generating units (B)(iii) allows the use of a different 24 month period for each pollutant.

In Paragraph (C) we propose to replace the 5-year look back with a 10-year look back for nonelectric steam generating units.

And in (C)(iv), allow the use of a different consecutive 24 month period for each pollutant.

We propose to revise Paragraph (A) of the definition of "net emissions increase" in Section 8-31 on Pages 28 and 29, by adding at end of the paragraph, except that (B)(iii) and (C)(iv) of that definition shall not apply.

MR. BRANECKY: Scott.

MR. THOMAS: Yes.

MR. BRANECKY: Where was that again? Where are you now?

MR. THOMAS: In Section 8-31 on Pages 28 and 29.

MR. BRANECKY: Are we still in the definitions section?

DR. SHEEDY: Yes. This one seems to be on Page 29.

MR. BRANECKY: Okay. On 29? Okay.

DR. SHEEDY: On Page 30.

MR. BRANECKY: Page 30, okay. Thank you.

MR. THOMAS: And 30. We propose -- on number four, we propose to revise (B)(ii) of the definition of "regulated NSR pollutant" in Section 8-31 on Page 32 by adding section prior to 112(r) and provided that such pollutant is not otherwise regulated under the Act. This is in response to an EPA comment.

In (b)(2) of Section 8-35 on Page 42, we propose to add a comma after "2006" and in (c)(1)(F) on Page 45, we propose to add "on" prior to January.

We propose to revise (A)(ii) in the definition of "net emissions increase" in Sections 8-51 on Page 58, by adding "except that (B)(iii) and (C)(iv) of that definition shall not apply".

DR. SHEEDY: Excuse me, Scott.

MR. BRANECKY: Page 59, I'm trying to catch up.

DR. SHEEDY: I'm sorry, I based those numbers on what was in the book because I didn't have this, and so they are maybe about a page or so of what this copy had. They were based on the copy that's (inaudible), so I know that's confusing.

MR. BRANECKY: You might slow down a little bit, Scott, I'm trying to -- I'm getting old and slow, so --

DR. SHEEDY: If you didn't -- if you didn't find any of them, just say so and we can tell you which page they are on in this handout.

MR. THOMAS: I'll go back over those quickly. We have, in my notes it says Page 7 of the definition of "visibility impairment", we propose to add "light extinction" prior to visual range. That's on 7.

We propose to revise the definition of "baseline actual emissions" in Section 8-31 on Pages 20 and 21.

DR. SHEEDY: Okay. (Inaudible).

MR. THOMAS: We propose to revise the Paragraph (A) in the definition of "net emissions increase" in Section 8-31 on Pages 28 and 29 and I guess that one is probably on 30, too?

DR. SHEEDY: Yes, it's on 30, I believe. 30.

MR. THOMAS: 30. Okay. We propose to revise (B)(ii) of the definition of "regulated NSR pollutant" in Sections 8-31 on Page 33 in (B)(ii) of Section 35 on Page 42, we propose to add a comma after 2006.

MR. BRANECKY: That's Page 43.

MR. THOMAS: 43, correction. We propose to revise the definition of "net emissions increase" in Section 8-51 on Page 59, I'm guessing, (A)(ii) in Section 8-51, Page 59. Sorry for the confusion.

Since we are proposing a number of substantive changes that were not in the rule published on the website on December 15, 2005 that were contained in the Council packet, staff requests that the Council continue this hearing on the proposed revisions to Part 1, 5, 7 and 9 and Subchapter 8 to the next Air Quality Council meeting to give interested parties time to evaluate these changes.

This, however, will mean that these proposed revisions to our rule will not be effective until the summer of 2007. So as a contingency measure, we have made available to the Council and we will make available copies to people in the audience of our new proposal on these rules. And these were, again, made in the last -- since the 30 day comment period -- comments received and based on what Phillip has done.

MS BOTCHLETT-SMITH: Do we have any questions from the Council?

MR. BRANECKY: I guess I would like to ask the staff, I know you get these things at various times, but is there any way to get this available to the Council and maybe even to the public by posting these comments on the website so that we can see these comments prior than just seeing them for the first time today.

That may help -- I don't feel comfortable, not having read through some of these comments, making a decision at this point. And I just -- is there any way to get these to us earlier? I think it's been a problem.

MR. THOMAS: This is a problem we've always had and we go one way or the other, we've been criticized in the past, you know, for having two rules out and it's confusing to the public.

MR. BRANECKY: Well, maybe not necessarily the rule, but at least the comments so I can see what's being discussed.

MR. THOMAS: And a lot of times -- not as an excuse, but a lot of times the comments are received very -- like yesterday.

MR. BRANECKY: Well, I would have been happy to get a fax yesterday, at some time rather than just seeing these for the first time this morning. I'm talking for myself, not for the rest of the Council.

MS. WORTHEN: I'm with David. I would appreciate if we could have it at least faxed, even if it's like the day before, I mean, that way we can at least look over them the night before and be familiar.

I do actually have a question on the proposed rule, because I did read through the changes that you have here. Do we want to go ahead and do questions on it?

MR. THOMAS: I do have a statement here I could read that goes over the main changes --

MS. WORTHEN: Okay.

MR. THOMAS: -- but we can answer questions now, too.

MS. WORTHEN: One, thank you for changing to the 10-year look back and the different two years for each pollutant, that is one good point.

On the baseline actual emissions, and I understand why you want the current emissions data for emission factors, I can see that's important with AP 42 because AP 42 does change.

The only thing I'm curious about is using the most recent SIM data and stack test data. Many facilities stack test on a semi-regular basis, maybe every five, six years, it just depends on the facility and on the SIM data. Why not allow, if they have eight year old stack test data when that's when they're establishing their baseline data, to use that stack test for that time period. And if they've got new stack test data, use that for the future. Because I can see where facilities, you may get different stack test results because there may have been some change that caused it and SIM data would be the same thing. That would be my question then, is not limiting that.

MR. THOMAS: Joyce, Phillip.

DR. SHEEDY: One of the things that we were concerned with was the accuracy of some of the older emission data in our emission inventory. That's not necessarily those that had stack tests done but a lot of the -- I believe a lot of the data is not really based on stack tests or SIMs or anything like that.

MS. WORTHEN: Well, and I can understand, it's not based -- old emissions inventory data, if it's not based on stack test data or SIMs data, yes, I can see updating it. If a facility at that time when they submitted the emissions inventory was doing it off of the SIM data from that year or stack test data from that year or the year before, I don't understand not being able to use that in a baseline calculation.

MR. FIELDER: Yes. What our point was there, was we are not trying to make you use that data after a change. If it's the appropriate data before a particular change occurred that was representative of the emissions at that time, that would be the most current data at that time. That's all we were trying to say there.

If you had a project that changed it, then certainly a change to an emission factor would not be applicable or an emission rate would not be applicable to the emission rate at that time.

MS. WORTHEN: Maybe we need to rework that paragraph a little bit so that it's -- so that some -- so that a permit writer five years from now doesn't come

back and say, well, this says you have to use the most current data, you can't use the SIM data from that year.

DR. SHEEDY: It says most current and accurate. So might you have an argument that SIMs data from that period is more accurate?

MR. FIELDER: And it's really --

MS. WORTHEN: I would think so.

MR. FIELDER: Really, it's not much different than what we do today. If you were to do a project today and you were doing your baseline actuals, we wouldn't come 10 years later and go back and say, well, this factor has changed, your baseline actuals prior to a project has changed, we don't do that currently and really, that position is not changing.

MR. PURKABLE: Scott, you said you had some prepared comments to make as a follow-up to your presentation. I would be interested in hearing the rest of what you have to say.

MR. THOMAS: This is the differences between the rule in the packet and the rule that we now are throwing out before the Council as a possible proposal.

1. The definition of -- I think this might be -- I think this one might be part of earlier on, but the definition of "visibility impairment" in parenthesis added "light extinctions," prior to "visual range". That's part of the changes that we've made to the BART rule and we will discuss later.

The other ones are in 252:100-8-31, the definition of "baseline actual emissions". We propose to revise this definition to match the federal definition. We have added a new Paragraph (A) which requires a baseline actual emissions be based on current emissions and defines current emissions. We have separated the requirements for the EUSGU, now in Paragraph (B), from those non-EUSGU's, now in Paragraph (C). (B)(iii) allows the use of a different 24 month period for each pollutant. In Paragraph

(C), we propose to replace the 5-year look back with the 10-year look back and allow the use of different consecutive 24 month period for each pollutant.

"Net emission increase" is in Paragraph (A), added at the end of the paragraph, ", except that (B)(iii) and (C)(iv) of that definition shall not apply."

3. Regulated NSR (B)(ii), added "section" prior to 112(r) and ", provided that such pollutant is not otherwise regulated under the Act." This is in response to an EPA comment. Joyce may be able to clarify on these a little bit, but they don't read well.

252:100-8-35, in (b)(2) we added after "2006", a comma after it, and in (c)(1)(F) we added an "on" in front of January.

In 252:100-8-51, "net emissions increase", (A)(ii), we added ", except that (B)(iii) and (C)(iv) of that definition shall not apply".

Basically, I think it comes down to the issue of the current emissions data in the determination of a baseline.

MS. MYERS: Based on my experience on working with the Agency on various permits, the burden is still on industry to provide the information to be used. The burden is still on industry to validate their baselines and the projected changes that they have with the project. I don't see that it would be any different. Am I right or wrong, Phillip?

MR. FIELDER: No, I would agree that it's the burden to try to determine the best factors that's available or the best emission rates that you can and --

MR. TERRILL: Let me just add something right quick so we can kind of clarify this. I know the Council is very sensitive about getting changes to rules that have been sent out 30 days previously, the day before, the day of. We don't like to do that, either.

What we have thought coming into today was, we have not been given any pushback or any indication from industry or anyone else that there was a big hurry to get

this rule passed today. So we felt like that probably the best thing to do was provide a clean copy to get close to what we think to be the agreements that we had all reached that we felt like were appropriate, and give you all a chance to look at it with the idea that we would get any comments to that, come in with a clean copy in April and pass the rule at that time, because we knew that we had this issue relative to how we were going to define the most appropriate emission factor and that sort of thing. We weren't sure we were going to get that worked out today.

The reality is, if we pass this thing as a regular rule today, it's got to go to the Board, it's got to go to the Legislature and the Governor, it won't become effective until the end of June, anyway, or thereabout.

If we were to pass this thing in April as emergency, if there are sources out there that are -- facilities out there that are waiting on us to get this done, we could pass it as an emergency and it can become effective then and it's essentially a wash as far as timeframe. So that would give you all time to take a look at the rule between now and April and make sure that we've got a clean copy, dotted all the i's, crossed all the t's, if there's any question about clarifying the emission factor language, we can do that and then come back as an emergency in April.

Is that a fair statement, Matt?

MR. PAQUE: Yes. It would have to go through the Governor's approval, so it wouldn't exactly go into effect in April, it would take us a little bit longer, but --

MR. TERRILL: The timing will be about the same.

MR. PAQUE: The timing will be about the same.

MR. TERRILL: Yes. And that way it would keep you all from having to --

MR. PAQUE: The Department would have to justify an emergency, so we would have to show that there are some facilities that the rule needs to take effect sooner rather than later.

MR. BRANECKY: Can you do that? I know the Governor doesn't like emergency rules.

MR. PAQUE: Well, they do -- they do inquire with the Department on any emergency rule, they give us a call and they like to know some examples.

MR. BRANECKY: Can we justify it?

MR. PAQUE: Well, if we have sources that are looking at maybe performing some projects that these rules are, you know, can streamline.

MR. TERRILL: If not, it may not make any difference. And that's -- my concern has always been -- because theoretically, according to the rule or statute, we were supposed to have this in place by January. But the feds have said that as long as you're making reasonable progress, which we are, they're not going to complain one way or the other, we're going to do a SIP call.

So it's really just a matter of within Oklahoma do we have sources that want to take advantage of this sooner rather than later. And if we do, then we need to know that and we'll propose it as an emergency in April and come back with a cleaned up rule, have all this language worked out relative to the emission factor and it should be a fairly easy process to pass it in April. That's what we thought we were going to do this time, otherwise we probably would have recommended to hold it over and not supplied you with a last second copy, because I know that puts you all in a tough spot because this is a fairly complicated rule. And it wasn't our intention to do that, because we wanted to make sure and we wanted to give Phillip and his folks the time to take a look at these different look back periods to make sure that we were satisfied that it really didn't make any different, then it just took longer than we thought.

So that's our fault and I apologize for that, but we felt like we wanted to give you something to look at today and we really never had intended to pass that until April and we think if we do it by emergency, it will all come out at about the same time, anyway.

MS. MYERS: If it does not pass by emergency in April, is the timeframe still the same?

MR. TERRILL: No. It would be the end of the session 2007 at that point.

MS. MYERS: We can't afford to do that. We're hurting ourselves. I personally do not want to see this rule carried over into 2007 from a perspective of working for a company that has facilities in multi-states and having to compete for capital money to do any kind of projects. If we're competing against a facility in Texas and they're able to go ahead and do a project based on actual to actual projections, we lose.

And I know that there are other industries within the state that are in the same position and we cannot afford to carry this over into 2007. So if you think we can get it passed in April and through as an emergency rule to be effective this year, then I'm probably okay with carrying it over. If not, then I want to pass it today and get it through.

MR. TERRILL: Well, I'm not going to promise you that we'll get it through as an emergency. I mean, we never have had a problem in the past, but I wouldn't want to be on the record as saying that absolutely nothing can go wrong, because you never know. It would be -- I can almost virtually assure you that if we have industry that comes forward saying we've got projects that we're wanting to get done and we can't wait until 2007, that's likely to go a long way in satisfying the Governor, because nobody is against economic development and I don't personally think it's going to be that big a hurdle to overcome. But I'm not going to go on the record and say that absolutely nothing can go wrong, because that wouldn't be true. I mean, because we can have any number of things go wrong, but it's not likely in this case, I wouldn't think.

(MYRNA'S TAPE 1B)

MR. BRANECKY: I guess I would like to ask you, we could come to April and be in the same situation with last minute changes we don't know. Can we have DEQ get us this information or even post as a -- on the web as a PDF file of comments of any last minute changes or comments or is that not --

MR. TERRILL: You mean, if we hold it over?

MR. BRANECKY: Yes, in April. I don't want to get into the same situation in April where we have last-minute changes.

MR. TERRILL: I don't know that we're going to have any changes other than --

MR. BRANECKY: Well, you never know.

MR. TERRILL: Well, I know, but I don't know what that would be. I mean, we don't plan to do any more work on this rule once we make the changes that we've all agreed to today, other than possibly tweak the language relative to the emission factors. I mean, what you see, we can probably have that posted end of the week, middle of next week, sometime next week at the latest. And we don't plan on doing anything more with it. That's what you'll see come to the Council in April.

So -- because I don't think there's any other issues to resolve. I think we've got everything resolved, it's just a matter of making sure that we've got all the things done and proofing it and those kinds of things that -- and those are minor. The substantive changes, there's not going to be any more. This is it. So it's just a question of whether or not we can justify the emergency.

MR. THOMAS: We would be glad to fax you copies of comments that we receive after the ones that we've have time to work on.

MR. BRANECKY: Well, anything that's not included in the Council packet that comes in after that, I would like to have before the Council meeting, if possible, either through email or fax, just so I don't -- I'm ready --

MR. THOMAS: You are aware that sometimes we receive (inaudible).

MR. BRANECKY: I understand.

MR. THOMAS: Well, maybe not so substantial comments from EPA and others on the morning of the Council meeting.

MR. BRANECKY: I understand.

MR. TERRILL: But in this case, since we're basically adopting the federal rule as is, I don't anticipate anything but support from them.

MR. BRANECKY: We have that on record.

MR. TERRILL: That's one thing I can virtually be certain about, is I don't think there will be -- it won't be a substantive nature, anyway.

MR. PURKABLE: Eddie, are there any changes -- this baseline actual emissions, is there anything here that's a little bit different than the federal rule, any nuances, any word changes, or is this pretty much the federal language? I didn't -- I haven't compared that.

DR. SHEEDY: There are some differences, the main one being that new Paragraph A that we put in about current emission data. The rest of it, there may be some word differences, but the meaning is basically the same. You know, a 10-year look back for everything except for the utilities. 32 -- a different 24 consecutive month for each pollutant, if you choose. So the rest of it is pretty much the same, although, as I said, word for word there may be a different word used, but it's --

MR. PURKABLE: So this still represents maybe a little bit of a difference from surrounding states in terms of what they've adopted, if they've adopted the federal rule as it is?

DR. SHEEDY: Well, you know, it -- we've put this in our rule, I don't know if it really is an actual difference in what other states might be doing. We just stated it. We think EPA, quite often uses current emission data when they go back and look at things like compliance and enforcement and that sort of thing, so it's not, you know, a brand-new thing to do. So I'm not sure other states aren't doing it, they may not have put it in their rule. We just wanted to get it clear so we wouldn't have to argue it over each case or each permit.

MR. TERRILL: This is really just clarifying what we're doing, anyway, and what we've always done. And I think there was so much rhetoric about the NSR changes, that there probably wasn't a lot of work actually done to see just exactly what it does and means in the real world.

And that was why we wanted to take a look at this, because we felt like that we owed it to the citizens from a public health standpoint to look at what we've done in the state and see if it really made a difference and it turns out it doesn't make that much difference. So to us, it's not worth fighting about.

You can argue whether or not, philosophically, it's a right or wrong thing to do, but at the end of the day if it's not going to make any difference from a public health and emissions standpoint, then it's not worth fighting over. To me, it's not worth it.

So we really don't think that we're doing anything differently than what we've done in our rule and what we've done forever, it's just a matter of clarifying it.

MR. PURKABLE: The inaccuracies in using emissions data 10 years old in arriving at this baseline, isn't that more or less of a temporary concern? Because this 10 year period is a sliding window and pretty soon the 10th year is 2005. So are we just really concerned about just a -- something that's going to disappear eventually, as emissions data become more accurate just by consequence?

MR. FIELDER: Yes, I think that's correct because right now you go back and look to what 1995, you're going to find some very rough emissions data. And so using -- that's why I think part the reason why updating and using current factors on a 10-year look back which is, you know, people haven't done and I'm not so sure they thought about -- EPA thought about putting it in their rule, really levels it out. I mean, I think that's what we found by using the new data.

DR. SHEEDY: And in the future, the data is getting better all the time, so the current data and the emission data should be more the same.

MR. PURKABLE: Sharon, I have a question just in terms of meetings. Is it possible to have a meeting before April if we want to move this forward or are we left with four times a year? I mean, is that an option for consideration, to move it forward a little bit faster?

MS. MYERS: I would say, yes. Matt, is there time to do that or not?

MR. PAQUE: No, the last Board meeting that we could pass the rule and have it go through this legislative session, it's too late for us to get the notices out and do the appropriate procedures to get the rule effective permanently by June, because the Board meeting is coming up in February.

MS. MYERS: So basically, we really need to get it effective as a permanent rule, do we need to pass it today to go to the Board meeting in February?

MR. PAQUE: Yes.

MS. MYERS: Correct?

MR. PAQUE: Yes.

MS. WORTHEN: I can be fine with the current emissions data the way it is. I mean, we still -- it's industry's burden of proof, but the rest of it, what I want is in there.

MS. BOTCHLETT-SMITH: Before we go to motion, we need to give opportunity for oral comment from the public and I have received one notice of oral comment. I'm not sure if that person wishes to speak.

Julia, did we cover your issues, yet?

MS. BEAVERS: (Inaudible).

MS. BOTCHLETT-SMITH: Okay. If you would step to the podium, Julia Beavers from OGE.

MS. BEAVERS: This may be the same thing, but I just want to clarify. We've been talking about from the baseline actual emission definition, correct? The current emissions? Okay. We submitted a comment that I think you all have, I saw it on the table, but because it wasn't in the packet, I just wanted to point it out.

And it's in the Section 36.2 about source obligation. And it's the same issue, but it's just a different slant on it. Determining the baseline actual emission before a project is one thing. Then we have this five year period we have to monitor or keep records for after a project. So what if after the project testing done, even maybe for this reason or some other reason, reveals that that emission factor that was used before the project has changed? So the most recent data is going to be a different number.

Our concern in the comment was to address -- we just wanted to make sure the same factor was used. Looking retrospectively to compare whether there's a change or not. And I don't know that we've really resolved that. We made a suggestion and I think there's some concerns with the DEQ on that. We suggested just to -- you know, future calculations would use the same factor.

MS. MYERS: You're saying the same factor that you use for the project, for the project baseline?

MS. BEAVERS: Either the same one we used before the project happened to compare baseline to future or use the new one, but apply it retrospectively to

the baseline, so the change will be based on the same factors at each end. That's our concern.

DR. SHEEDY: I think our concern with making a language change that you suggested was that there may be a time when the project itself causes an increase in the emission factor. So we wouldn't want to put language in if that were the case, that would say then go back and recalculate your baseline emission based on these emission factors that were indeed part of the project and attained should show up.

MS. BEAVERS: But there could be monitoring, say for particulates, that the project did not affect particulates.

DR. SHEEDY: Yes.

MS. BEAVERS: But then we find out, oh, that factor has changed. So if you applied the previous factor to baseline, it would look like you make a change in particulates when really your baseline was based on the wrong number.

DR. SHEEDY: And I think that's hopefully addressed when we say to use the most current and accurate, so that in this case your project didn't include something that was going to actually increase the emission factor. But the emission factor changed for some reason that didn't have anything to do with your project exactly, maybe better tests, new emission factor or whatever, then I think it would be appropriate in that case to recalculate your baseline actual emissions on that current data.

Do you think so, Phillip?

MR. FIELDER: No, I agree. I mean, it's -- if you have new and better data that's not affected, then you can go back and use or you would recalculate based on that new data.

DR. SHEEDY: Because you would assume that's what you were emitting back in that day, as well, because this is a better emission factor.

MR. FIELDER: That's correct.

MS. BEAVERS: The comment then that we submitted, we were suggesting it be added to (C)(3). But in (C)(7) on my Page 51, does that cause us a problem, because it says, the requirements shall apply if construction has not yet commenced at any time that a project is determined to be a major modification, including but not limited to emissions data produced after the project is completed. Like you've got it calculated as though it hasn't happened, but then you've got to use current data if something changes and that -- I'm kind of getting lost in that.

MR. FIELDER: It could -- that situation, if it were to arise, could cause a problem and it currently causes a problem under the current PSD process. That would be similar as a project occurs and you estimate future potential emissions in that factor, at some later date you find for stack test purposes or whatever, you find is incorrect, we would typically require that project to be reviewed under the new most current data that's available.

DR. SHEEDY: I believe this is the NSR language. And as Phillip said, that has been a requirement in the past where if you did something that -- well, something similar, if you made a change and a new project became major, if you had it wrong and it really was major, then you have to go back and look at it as though you never received a permit. I believe that's current, as well.

MS. BEAVERS: So at that point, you would use the same factor to apply it to the baseline and to the emissions after it changed.

MR. FIELDER: Well, you've got two situations, whether you're talking about an affected pollutant or a nonaffected pollutant. If the project affected a pollutant, the factors would be different. You would have a set baseline factor that you already -- that we already agreed upon and then you would have a future actual factor that would apply.

But if it's unaffected pollutant, it could possibly be the same factor -- well, it would be the same factor. And if you later determined that that factor was wrong, yes,

you would use again the same factor for baseline and future actual, because we had assumed since it was unaffected, that would be the appropriate factor during that time span.

MS. BEAVERS: So the key there is whether it's really an affected pollutant. If it's not, just because we found out something later, to change like an AP 42 factor.

MR. FIELDER: But in that case, you would use the same factor for both.

MS. BEAVERS: Okay. So at this point, you're proposing just to leave it like it is and not make any change on that? All right. Thank you.

MR. TERRILL: Okay. After talking to Matt, I think we've got two routes we can go. If you all want to try to pass this today as a permanent rule, we can make the changes, any additional changes we need to make to what was in the handout that you all had today and post that within the next week, because that would be the rule that's going to go to the Board. That way, that will give you a little bit of time to take a look at it and if there's something that's been missed inadvertently or whatever that we wouldn't want to pass, then we could either pull it or not take it to the Board or take it to the Board and ask that it be remanded back to the Council to bring back as an emergency rule in April, or we could hold it over and bring it back as an emergency rule in April.

Matt's fairly confident that this is not going to be that big of a deal. We have to satisfy the Governor's lawyer, the Governor's attorney, that this is indeed an emergency and I tend to agree with him, if we tell him that there are likely to be facilities within the state that want to do expansions between now and June of 2007 that would want to take advantage of that and for them it is an emergency, that's probably going to be enough.

So we don't think that there's going to be an issue if you want to hold it over. You've got either one of those two, it gives you some time to look at it before it goes to the Board. What we can't do is take a different version to the Board than what comes out of the meeting today.

MR. PAQUE: Also, I think that if the Council wants to, I was incorrect before, they could hold a special meeting, reconvene and hold a special meeting and take an action on the rule, because the rule almost as proposed has been noticed for the Board meeting at the end of February. It was noticed along with the notice for this meeting, so a special meeting is a possibility. It is something that could happen, as well.

MR. TERRILL: When would that have to take place?

MR. PAQUE: Well, and that's what I was incorrect -- the Board has been noticed, the Board meeting has been noticed of this NSR package that it would be on the agenda at that meeting, so timing-wise, it could take place anytime before now and, I believe, the end of February.

DR. SHEEDY: Do we have to be able to get it to the Board packet?

MR. PAQUE: There's some other things that go along with preparations for Board meetings, that's what I'm unsure of. It couldn't -- it would have to be soon.

MR. BRANECKY: Do you have to give 30 days notice of an emergency meeting?

MR. PAQUE: An emergency Council meeting?

MR. BRANECKY: Yes.

MR. PAQUE: No. A special meeting?

MR. BRANECKY: Yes, a special meeting.

MR. PAQUE: No, it's just a 48-hour notice.

MR. BRANECKY: 48 hours, okay.

MR. TERRILL: So theoretically, we could meet next week, then, if the Council chose to do that and just take up this issue and then take that, whatever comes out of that to the Board on the 24th of February.

MR. PAQUE: Yes, that's correct. I just -- the only thing I'm unsure of and I apologize, is there are preparations for materials that have to be sent out to the Board, such as comments that we've received and rule impact statements and those types of things and I'm not sure of the deadlines that we have for those items. But next week would probably be appropriate, yes.

MR. TERRILL: Generally, it's a couple of weeks ahead of time, just like you all, it needs to be in the Board packet. So if you all wanted to have a special meeting and can get a quorum next week as opposed to -- I think any of these will work. I really don't think it will be that big of a deal to get an emergency through, either. We've done it in the past with other rules.

MR. BRANECKY: I guess I would be concerned about being able to get a quorum on such short notice.

MR. TERRILL: Next week.

MR. BRANECKY: Next week.

MS. MYERS: I think my inclination at this point is to pass it today, post it, have an opportunity to review it. If anybody has any major heartburn, ask the Board to remand it back to us for the April meeting and then pass it as an emergency then.

MR. BRANECKY: So how would that work again? Who would make the decision to pull it? Does that have to come from the Council or is that something that you guys --

MR. TERRILL: We can elect not to take it to the Board. But probably what we would do, and I would need to talk to Jimmy and find out what the protocol has been in the past and what the Board would expect, but it would be our

decision, the Agency's decision, the Division's decision not to take it. But I would suspect what he would recommend, I'm just guessing, he would recommend we take it, put it on the agenda, and ask the Board to send it back to the Council, that we weren't ready to pass it.

MR. BRANECKY: Would you get input from the Council in making that decision to pull it? If we pass it today, we're saying, kind of --

MS. MYERS: If we pass it with a stipulation. Can we do that?

MR. BRANECKY: With a stipulation -- I mean, who makes -- I guess, who makes the final decision not to take it to the Board?

MR. TERRILL: That would be me.

MR. BRANECKY: Okay.

MR. TERRILL: But I'm going to be reluctant -- if the Board expects to see -- it's kind of beyond precedent of what's happened in the past. If the Board expects to see the things that come out of the Council, then we'll probably take it to the Council, explain to them what happened, and ask them to remand it back.

If there really is no precedent, probably what we'll do is not take it at all and just bring it back in April with a revised final rule, if you will, and then -- as an emergency and then take it to the Board in June, which is their next meeting.

MS. BOTCHLETT-SMITH: I haven't received any other notice of oral comment, but I keep seeing a hand out here in the audience. Don, did you wish to make a comment? Don Whitney. Could you please step to the podium?

MR. WHITNEY: Don Whitney from Trinity Consultants. Yes, I would like to comment on the urgency of getting the rule passed. And speaking on behalf of several of our clients, we find that a lot of the -- what would appear to be rather minor changes, that facilities do get wrapped up in the current PSD NSR rule, the old traditional way of looking at past actual to future potential, brings in for scrutiny a whole

lot of projects that seem absolutely trivial to a normal observer, and yet they are wrapped into the PSD issue because of the old current rule that we have on the books.

And therefore, I would suggest that there is some urgency to get this on the books this summer, either by whatever method it takes, just because of not so much new, truly new PSD projects, but the concern of the current permit review issue under the old rule does bring in a lot of rules -- a lot of issues that passing minor changes very difficult.

The second comment I would like to make is on the appropriate baseline emission factors. And what we have found with a lot of proposals for permit applications is that the best way to clarify what the baseline emissions are going to be from past actual and future actual emissions is to specify that in the permit rather than hoping to resolve all issues in the exact rule that's being addressed today is to rely on the permit writers, frankly, and to suggest that the proper baseline going forward would be established in the permit rather than trying to cover all different possibilities of the most appropriate emission factors in the rule is to rely on that being established in the permit, what's used in the past and what will be used in the future to determine the compliance. Thank you.

MR. PURKABLE: We have had a number of comments that were made and, of course, I'm just thumbing through these. OGE's, you've addressed yours. Are there any others of these comments that ought to be responded to or addressed before we decide to take action? For example, I mean, there's one here, a lot of minor sources in the state, the question is, this rule has nothing to do with basically minor sources; is that correct? And I assume that is correct, there is nothing here anywhere that would affect minor sources.

DR. SHEEDY: That's correct.

MR. PURKABLE: Okay. Are there any other questions here that ought to be responded to before we --

DR. SHEEDY: I think that -- I think that we have made a good number of the changes that were suggested and we have written in our written comments where we didn't do it, we've explained why. But there are 50-something comments, I think, and I don't remember them all.

MR. PURKABLE: I was just referring to the ones where it was in our packet that we haven't had a chance to -- these newer ones.

DR. SHEEDY: I think we --

MR. PAQUE: What you're looking at today, those highlights, those are addressing many of those comments. That's what started these comments, a lot of them.

DR. SHEEDY: Yes.

MR. PURKABLE: Okay. Thank you.

MR. TERRILL: Yes. We did get some comments that came in after your Board packet went out and it's real difficult to make sure we hit all those. We think we did, but I wouldn't want to go back to not making a guarantee that we get an emergency rule passed. I wouldn't want to guarantee that we didn't miss something, because when you get something in a week or so before the Council meeting, you don't always get it. But we believe the concerns that were in those comments are okay. We've addressed them.

MR. BRANECKY: So let me understand. If we pass this today, we will hold it open for a period of time for comment or how is that going to work?

MR. TERRILL: If you pass it today, what we will do is we will post the version as quickly as we can that we intend to take to the Council or to the Board, rather, that has the changes in it that we think we all believe were made today. And if there's not any -- if someone -- if you all don't look at it and give us comments back and say, wait a minute, you didn't catch something or we didn't mean to do this or whatever, that's what's going to the Board.

MR. BRANECKY: Well, I think you need to set a timeframe. If we don't hear any comments within a week or two weeks --

MR. TERRILL: Well, it's -- if we don't have any comments by the time the Board packet goes out --

MR. BRANECKY: And when is that?

MR. TERRILL: Generally, two weeks before the Board, give or take, that would mean the --

MR. BRANECKY: I think we need to have a cutoff date.

MR. TERRILL: That would mean the 10th. That would mean the 10th of February, would be --

MR. BRANECKY: Okay.

MR. TERRILL: But it's generally roughly two weeks before the --

MR. PAQUE: If you give me about ten minutes, fifteen or ten minutes, I can find the date.

MR. BRANECKY: Well, I just think --

MR. PAQUE: We sent someone off to get that date.

MR. BRANECKY: I just think if we're going to do that, we need to set a cutoff date for comments or concerns, otherwise it will be forever. So we'll all know the rules of the game.

MR. TERRILL: Well, I would be less than honest with the Council is, if we get comments that -- before the Board passes on this that indicates to us that there is an issue, we will ask the Board to send it back to you and we'll have to do it in April as an emergency. Because normally we don't accept any comments. Once it leaves here, that's what goes to the Board and we can't make any changes to it anyway, so we -- if we find that we've done something that's a problem, then there is no way we can fix that without coming back in April as an emergency.

MR. PAQUE: By state law, the rule cannot change from what the Council recommends -- for the Air Quality Council, what they recommend, that rule text cannot change what was presented to the Board.

Also, the Board packets are being mailed on the 10th. So I would say that a fair deadline would be Friday, February 3rd.

MR. TERRILL: And I don't think there will be much change to what you all had in your handout today. We just didn't have enough time to get it to you ahead of time, so there shouldn't be any changes, much to speak of from that, if any.

MR. CURTIS: So to help my confusion, we're really considering the changes that were presented today and not the one that was sent out with the Council packet?

MR. TERRILL: That would be correct. Because it -- what's in your packet today reflects our taking a look at the work Phillip did, satisfying ourselves that there wasn't any difference in the 10 and 5-year look back and that's the changes we've made to satisfy the concerns that were raised.

And it also includes the language about emission factors, which we didn't have. That's what we found out was a big issue, so it is fairly substantive changes, but we think it reflects what the concerns of the Council originally were and addresses those.

MS. BOTCHLETT-SMITH: I don't have any other oral comments. Is there anything else from the Council?

MR. PURKABLE: Have there been any litigation issues in other states that have essentially adopted the federal rule? Has it been pretty clear sailing once it's been adopted?

MR. PAQUE: What it would take for that to happen would be EPA to take action on a SIP, an actual submittal, and EPA is yet to take action on any NSR rules. Some states had to go back and change their rules because they went ahead

and adopted it with the clean unit provision and some of those things, but as for litigation, EPA has not approved an NSR SIP yet.

MR. TERRILL: There has been some concerns raised when the rules go to the Legislature, there have been some groups that have raised the issue at the Legislature in other states because they felt like that the NSR rules were not -- and these were ones generally where the state passed the rule as is and they raised the issue at the Legislature saying it wasn't appropriate, it's not protecting public health. But I don't think we'll have that and even if we did, we'll go back to the analysis that we did that shows that there's not any difference to speak of.

MS. MYERS: Are there any other comments or questions from the public? Julia.

MS. BEAVERS: This will reveal more about me than I probably want anybody to know, but is there -- are the terms potential to actual and actual to potential synonymous? Because I did submit a comment on the applicability section about major modification, Number 6 on Page 18, actual to potential and then down in the paragraph it refers to the potential to actual test. And if those are the same, then I don't have a problem. But if they aren't the same, I think they should be consistent. Thank you.

DR. SHEEDY: We added this -- number six? Actual to potential for projects that -- I think that's the one that we added, Matt, that says that if you don't want to use a projected actual test, then you can go ahead and use the test that we have now, which is actual to potential and then you don't have to do that recordkeeping. I mean, if you were going -- if actual to potential would get you out of PSD, then you don't have to do actual to actual and then get involved with the extra recordkeeping. That's all six is doing. It kind of took it out -- I believe it was included in the definition of projected actual emissions, they put it down in a paragraph in there that you can go ahead and use the old system if you wanted to.

So we just thought we would put it out front so you would be aware that if you didn't need to use projected actual, you could be non-PSD without it, then you didn't have to use it. If that's confusing, then we might need to think about putting it there again. But it is the rule, regardless of whether it's there.

MS. BEAVERS: My question was just the terminology. It says actual to potential and then down below, it says potential to actual. I'm just wondering if those are the same?

DR. SHEEDY: Wait a minute. I don't think so. Wait a minute.

MS. BOTCHLETT-SMITH: Joyce, if you need a minute to look over that, our court reporter has requested a short break.

DR. SHEEDY: Okay.

MS. BOTCHLETT-SMITH: So if we could take about five, no more than 10 minutes to give her a little bit of a break, and then we'll come back to this.

(Off the record)

(Back on the record)

(Myrna's Tape 2A)

MS. BOTCHLETT-SMITH: Joyce, did you want to go ahead and answer that question that you were asked prior to the break?

DR. SHEEDY: Julia pointed out an error in Paragraph (6) on Page 18. Down in about the third line from the bottom of that paragraph where we say owners or operators can use the potential to actual test, that should be actual to potential test, just swap those terms around and Julia pointed that out and that needs to be -- that will be changed. So in the rule that -- if the Council decides to forward this rule, then that rule will stay -- use the actual to potential in that place, which is correct.

MS. MYERS: Are there any other comments? If not, I'll entertain a motion.

MS. WORTHEN: I make a motion to pass with the comment noted by Joyce.

MR. CURTIS: Second.

MR. BRANECKY: I would like to add to that, with the stipulation that until February 3rd, that if there's any other concerns from the Council, that they'll be directed to DEQ and they would consider that in whether to take this to the Board or not.

MS. MYERS: Matt, can we just back up and clarify the motion?

MR. PAQUE: It's been seconded.

MS. WORTHEN: I'll withdraw the motion.

MR. CURTIS: So be it.

MR. BRANECKY: I would move that we adopt the rule as presented to us, given to us this morning by DEQ as a permanent rule with the changes proposed by Ms. Beavers, with the actual to potential language, and also with the understanding that DEQ will accept comments from the Council until February 3rd. And based on any of those comments made, opt to withdraw the rule or opt not to bring the rule to the Board in the February meeting.

MR. TERRILL: We will bring the rule to the Board. I talked to Steve Mason, who is the Board Chair, and he believes and I agree with him, that proper protocol is whatever comes out of the Council needs to go to the Board and then we can explain the circumstances and the Board can send it back. And that's probably, for transparency in the rulemaking process, that's probably the right -- that is the right way to do it, so --

MR. BRANECKY: So I need to change that motion, then?

MR. TERRILL: Yes. Because you --

MR. BRANECKY: The whole thing?

MR. TERRILL: You can come to the Council meeting or the Board meeting and make any -- raise any concerns there and the Board can decide to send it back.

MR. BRANECKY: Okay. I'll try again. I move that the Council adopt the rules as given to the Council this morning by DEQ with the additional change recommended by Ms. Beavers of OG&E regarding the potential to actual language and that DEQ accept comments from the Council until February 3rd with any concerns -- further concerns of the rule.

MR. CURTIS: Second again.

MS. MYERS: Myrna, we have a motion and a second. Would you call roll, please?

MS. BRUCE: Gary Martin.

MR. MARTIN: Yes.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLETT-SMITH: Okay. The next item on the agenda is OAC 252:100-8 Permits for Part 70 Sources Part 11. And the presentation will be given by Mr. Matt Paque.

MR. PAQUE: Madame Chair, Members of the Council, ladies and gentlemen, my name is Matt Paque, I'm an attorney for the Department and the Air Quality Division.

For this item of the Agenda, I'll discuss the Department's proposed revision to OAC Title 252 Chapter 100 Subchapter 8, Part 11.

In 1999, the U.S. Environmental Protection Agency announced a major effort to improve air quality in national parks. This effort resulted in the development of the Regional Haze Rule. This rule calls for state and federal agencies to work together to improve visibility in Class I areas which include 156 national parks and wilderness areas. The Wichita Mountains, southeast of Lawton, Oklahoma, is one of these areas.

States are required to submit Regional Haze State Implementation Plans outlining methods for improving visibility to EPA by December of 2007. One mandatory method states are required to utilize improving visibility is the application of final Best Available Retrofit Technology known by the acronym BART.

The EPA published amendments to the Regional Haze Rule and BART guidelines in the Federal Register on July 6, 2005.

The process of establishing BART emission limitations can logically be broken down into three steps:

First, states identify those sources which meet the definition of a BART-eligible source set forth in the proposed OAC 252:100-8-71.

Second, states determine whether such sources emit any air pollutant which may reasonably be anticipated to cause or contribute to any impairment of visibility in a Class I area. A source which fits this description is subject to BART.

Third, for each source subject to BART, states then identify the appropriate type and the level of control for reducing emissions. The level of control is to be established on a case by case basis taking into account the criteria listed in the BART definition, which is in the proposed OAC 252:100-8-71.

The identification of a BART eligible emission unit at a facility involves a 3-step process:

The emission unit must have been in existence prior to August 7, 1977 and begun operation after August 7, 1962.

The emission unit must be located at a facility which falls into one of 26 categories.

The aggregate potential emissions of all emission units identified in Steps 1 and 2 must be greater than or equal to 250 tons per year of any visibility impairing pollutant. The pollutants that reduce visibility include particulate matter, PM10 and PM2.5, and compound which contribute to PM2.5, such as nitrogen oxides, NOx, and sulfur dioxides, SO2.

DEQ has currently identified 25 BART eligible sources and almost all of these identified sources have been in contact with the Division regarding their BART status.

Under the proposed rule, owners or operators of such sources must submit the proposed BART or proposed exemption from BART requirements for these sources to the Department no later than December 1 of 2006.

Notice of the proposed rule changes was published in the Oklahoma Register on December 15, 2005 and comments were requested from members of the public.

Since the last Air Quality Council meeting, the Department has received comments from the following:

The EPA Region 6 Air Planning Section submitted comments on December 2, 2005. Based on their comments, some minor changes were made to the rule and those changes are reflected in the published proposed rule and the comments are available in your Council packet.

OGE Energy Corporation submitted comments on December 15, 2005 and again on January 4, 2006 and those comments are available in your Council packet. Based upon those comments, the Department proposes amendments to the published rule as follows. These amendments were made available to you this morning and we do apologize for the short notice.

Today, the Department would like to amend Sections 252:100-8-70, 8-73 and 8-75 to include a threshold value for visibility impairment. This change will incorporate into the rule the federal 1.0 and .5 deciview thresholds for determining if a source causes or contributes to visibility impairment in a Class I Area. The Department also proposes to amend the proposed OAC 252:100-8-71 to include the definition of Deciview. Other related amendments for consistency with these changes should be made to the proposed OAC 252:100-8-70, 8-73 and 8-75.

Also, today the Department proposes to amend the proposed OAC 252:100-8-73(b). The Department would like to limit the pollutants considered for BART to only NO_x, SO₂, PM-10 and PM-2.5.

Also, today the Department proposes to amend the proposed OAC 252:100-8-72 to reflect the title of Appendix Y, also be included so that the section would read, Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule."

And finally, today the Department proposes to amend the proposed OAC 252:100-8-75 to reflect that BART must be installed at BART eligible sources that cause or contribute to visibility impairment no later than five years after EPA approves the Oklahoma Regional Haze SIP.

Again, the Department apologizes for bringing these amendments to you before today, but it is the Department's opinion that all these proposed amendments are nonsubstantive because they are all reflections of the federal Regional Haze Guidelines Appendix Y, Guidelines for BART Determinations Under the Regional Haze Rule, as previously proposed to be incorporated into the rule.

At this time, staff asks the Council to recommend the proposal with the proposed amendments to the Environmental Quality Board for permanent adoption.

MS. BOTCHLETT-SMITH: Questions from the Council.

MR. CURTIS: Yes. Do we have any estimate as to the economic impact of this rule?

MR. PAQUE: The rule will require some of those BART eligible sources to install BART, and so there would be an economic impact on some facilities for that reason, that is if they do cause or contribute to visibility impairment.

MR. CURTIS: So any of the comments that you received thus far, have they indicated any sort of economic impact?

MR. PAQUE: We haven't received any comments that indicated economic impact. But it should be noted that, as I mentioned before, when you are looking at BART and what's the appropriate BART for your facility, economic feasibility is part of that determination, economic feasibility of those controls is part of that criteria.

DR. SHEEDY: And there will be some costs for modeling.

MR. PAQUE: Yes, I'm sorry. Costs --

MR. BRANECKY: Right.

MR. PAQUE: Costs for modeling.

MR. BRANECKY: I can address that a little bit, Bob. We have some BART-eligible sources and we are preparing to do modeling. If that modeling shows an impact on visibility in a Class I Area, SO₂ and NO_x reductions are substantial. You're talking scrubber on a unit, we're talking \$75 million in capital costs and several million operating costs per year.

MR. CURTIS: So it's a potential substantial impact. I had a --

MR. PURKABLE: Has the modeling protocol been established, since I think the rule says established by the Director. Is that established?

MR. FIELDER: The modeling protocol is close to being finalized. I think the last I heard, within a week. They've been working on it for quite some time now and it's -- the CENRAP group, if you're more interested in that, you can get some information from them, but within the next week or so, I think they're supposed to be finalizing that.

MR. BRANECKY: Is trading being considered as far as BART?

MR. TERRILL: We don't have any plans to propose a trading rule at this time. We left an option in here in case at some later date we can do that. But that's just mainly a placeholder in case -- we never could -- we had a lot of discussion and we never could figure out how to do it and do it where it made economic and practical sense. So we don't have any plans to do any training program relative to BART right now, but we do have the ability to do that if someone proposes an idea that we think can work. And then, as with all this, we would have to come back to the Council with rules and all that.

MS. BOTCHLETT-SMITH: Do we have any more comments or questions from the Council? I have received one notice of oral comment from Mr. Bud Ground with PSO.

MR. GROUND: Thank you, very much, for this opportunity. And really, I had the same question that Dave brought up about the (inaudible) trade or the trading program.

And so Eddie, you said that you don't have any plans at this time to come up with any type of a trading program. And I guess just to add onto that, if you don't have any plans to do it, are you waiting on CENRAP to develop something or are you waiting on another, you know, private industry to develop a trading program, or are you just not planning on ever trying to implement a trading program?

MR. TERRILL: Well, we've had discussions internally and also with some of the stakeholders. In fact, we've had two presentations as part of our policy

oversight group meetings that we have, from a group that's pushing a trading program. But it's a group that's pushing it that's not within the CENRAP region and we think they may have other reasons for wanting a trading program, because there's money to be made off one.

We just never could put together a plan that we felt like was workable for us, because there's associated cost with it. You would have to figure out who could trade, would it be intrastate, would it be interstate, we're not part of the CARE -- we're not a CARE state, so we don't have that option to trade there. So we just felt like it was just too complicated to figure out at this point. We just didn't feel like there was anything to be gained from it at this point. But if at some later date as this process progresses and we feel like there's a need that arises that we need to do a trading program, then we would entertain that at that point.

We also didn't feel like we could get anything through in time to include it as part of our 2007 SIP. That really drove it more than anything else because every time we thought we had answered one question, we'd have three more that would come up and we just abandoned it because we're really concentrating now on trying to get the work done so we can submit a SIP in 2007. And if turns out after we do that that we need to do a trading program, if stakeholders comes in and says we want to discuss it, we think here's why we need that, then we'll look at it at that point.

MR. GROUND: Okay. Well, I do appreciate you keeping it in there. But I do also think that it would be very beneficial to the state of Oklahoma and I hate it that we don't have one just because we're not a CARE state, because it can be a lot less costly to comply with the trading program.

And just as a follow-up question, is there any time limit that you would say that it's too late to put a trading program in? I know for us we have to do a lot of preplanning and there's going to be a time when we either have to install or rely on our trading program, but I didn't know if there was a time limit where you would say --

MR. TERRILL: I think you've answered your own question. It really becomes, can you get one in place before decisions have to be made by those that are going to install BART that allows them to take advantage of it. You know, I don't think we care one way or the other whether we have a trading program as long as we don't get stuck with having to administer it with no way to fund it. That's -- we don't have any experience with this. We would have to figure out how to do it and I don't know that having a third party do this is a good way to do it, because inevitably your costs are higher. So we would have to figure out how to do it.

But if the stakeholders and the folks that are involved want to sit down with us and try to put together a trading program, we may miss our 2007 deadline, but I don't know that we couldn't put something in place to work for you to make your plans before you have to make a commitment as far as --

MR. BRANECKY: Don't we have to have those -- those facilities have to have those plans in to you by December of this year?

MR. TERRILL: I believe that's right.

MR. BRANECKY: So --

MR. TERRILL: It would be tough. Again, I don't want to preclude it, that's the reason we left the language in here and -- yes, we had some discussions early on and we really never got a lot of positive feedback from the folks that we had in that it was worth pursuing and we had other things that were keeping us busy, so we didn't pursue it, either. But we're not closing the door on it. I mean, if you all -- Bud, if you think there's a groundswell out there of enough folks that are interested in doing it that make it worth our while, we would sit down and try to develop the resources to do it.

MR. GROUND: Okay. So you're not opposed to us getting together the group, because you did submit a list today of BART-eligible sources, if we were to get together and come to you and talk about this?

MR. TERRILL: Absolutely not.

MR. GROUND: Okay. We really appreciate it. Thank you.

MS. BOTCHLETT-SMITH: I didn't receive any other comment -- notice of comment from the public. I'm not seeing any hands up. But do we have any questions? It doesn't look like it, Sharon. Any other comments from the Council?

MS. MYERS: If there's no further comments from the public or from the Council, we'll entertain a motion for this rule.

MR. BRANECKY: I'll make a motion we move -- we approve as given to us this morning by DEQ.

MR. PURKABLE: I'll second.

MS. MYERS: We have a motion and a second to approve this rule. Myrna, would you call roll, please?

MR. BRANECKY: Do I need to specify a permanent rule? Is that necessary? Can I amend my motion or do I need to specify that?

MR. PAQUE: The rule is only noticed as a permanent rule.

MR. BRANECKY: All right. Thank you.

MS. BRUCE: Gary Martin.

MR. MARTIN: Yes.

MS. BRUCE: Jerry Purkable.

MR. PURKABLE: Yes.

MS. BRUCE: Laura Worthen.

MS. WORTHEN: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Bob Curtis.

MR. CURTIS: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Motion passed.

MS. BOTCHLETT-SMITH: That concludes the hearing portion of today's meeting. Sharon.

MS. MYERS: (Inaudible) over to Eddie.

MR. TERRILL: I'll be short. I've only got a couple of things.

As most of you who have emissions inventory turnaround documents to submit, that time has arrived to start doing that again. And a question has come up about permits that contain pollutants that aren't defined as regulated pollutants in our rule, but they're contained in the old toxics rule and whether or not those have to be submitted as part of the emissions inventory.

Well, theoretically, yes, they do. But what we're proposing is and we'll put this up on our website and we'll be taking this to the workgroups that we're conducting, but what we're going to propose is that if it's a -- if it's not a regulated pollutant but it's a VOC, then lump that in as a VOC when you do your reporting and not as an individual pollutant that's found in Subchapter 41. I hope that makes sense.

But we're going to be coming back to the Council in April clarifying our definition of regulated pollutant and so you guys will have an opportunity to take a look at that and we'll be cleaning up some stuff. But as it is right now, if you've got permit language that includes toxics under the old rule that can be considered as VOCs, lump that into your VOC when you do your emissions inventory reporting. If it's not a VOC, there's going to be a few of those, Kendall probably doesn't want me saying this, don't report it because we don't have a way to make it fit and it is contrary to our rule, but we're going to fix it in April and we don't think it's going to be that much of a big issue anyway. So it will confuse our Redbud system if you try to report it and we don't have time to modify the system so --

MR: Eddie, we just wanted to mention that we also wanted to include that under the PM situation.

MR. TERRILL: I'm sorry. Right. If it can be included as a PM, report it as PM, as well. So if you've broken it out and it could be reported as a PM or a toxic or VOC, please do so. Otherwise, we'll clarify the definition of regulated pollutant in April and do the -- we knew there would be some cleanup of the Subchapter 41 at some point and we're in the process of starting that.

M. BEAVERS: Eddie.

MR. TERRILL: Yes.

MS. BEAVERS: A question to clarify that. Since I'm probably the one who asked the question -- actually, I did ask the question on the last one, if -- you're saying if it's -- if it would be classified as a VOC but it's a nonhaz, then we're just going to lump it into nonhaz VOC option and then just lump into the straight nonHap PM?

MR. TERRILL: Isn't that where you want it, Ray? Yes. You are correct.

The other thing I mentioned, I've gotten two or three calls from -- well, actually, I've gotten several calls over the last and emails over the last two or three months about comments that I have made that show up in various publications. For those of you that don't know, I am the current President of STAPPA/ALAPCO and that's our national air directors association. And as part of that, there is going to be times where I'm going to comment on things that are going on nationally because that's what we do, that are going to show up and the question has become, if I make a comment on something, does that mean that's what we're going to do here in Oklahoma. Well, it may or may not mean that's what we're going to do here in Oklahoma because everything we do comes through the Council as a rule change. So hopefully the concerns that have come up, you won't have them but there are going to be times because we represent all 50 states and we

come to our conclusions or consensus based on a consensus that may or may not be a majority, there may be some things that we comment on, as far as federal rules are concerned, that may not be applicable to what we'll do here in Oklahoma. An example of that was, I got a call yesterday and there will probably be an article that will appear in one of the papers about the federal rule that came out yesterday with course -- relative to course PM and the fact that EPA decided to exempt two large sectors from regulation if you have an area that is nonattainment under the new course PM standard, whatever that happens to be.

And my comment was that it was probably inappropriate for EPA to do that, because what that does is, if we do analysis, we do have areas that are in nonattainment with a new course PM standard, which we don't anticipate that to happen, if we were to and we're already hamstrung by the fact that we can't look at two large emission sectors that more than likely are contributing to the problem, then that means everybody else has got to figure out what we're going to do to get us back into attainment and we don't think that's EPA's role. EPA's role is to provide a standards, national federal standards that have a margin of safety that are protective of public health and it's up to us to figure out how to get there and all that comes through the Council and that's the opportunity for us to show whether or not the decisions we made relative to what we should control to get to where we need to get for attainment is correct or not.

So I'm not going to say what sectors were out there that got exempted, but I'm sure there's going to be some folks that are concerned about my comment and my comment, I think, is a fair one. I don't think that was appropriate for EPA to do that and we will make those comments later.

So -- but I mainly want you to know that you may very well, if you get trade publications, that we will have comments that quote me. And just because I made a statement, that doesn't necessarily mean that's exactly what we're going to do here in

Oklahoma. We may propose that, but it has to go through the process and it will be vetted just like all of our other rules, so.

MS: (Inaudible).

MR. TERRILL: Yes, that's right. Anyway, that's all we've got. I appreciate everyone's attendance. Do we have any new business? Yes, Bud.

MR. GROUND: (Inaudible)

MR. TERRILL: We've seen a few blips, but nothing that we really could tie to the fires. What we think have been an issue is blowing dust, but we haven't seen anything yet that are high enough of a concern to u that would indicate that we would have some attainment issues.

Now, you know, EPA has proposed new PM fine standards that came out a few weeks ago and I guess yesterday they produced -- proposed their PM course and there's going to be an urban standard and right now there's not going to be a rural standard relative to PM course, but that could change, too, depending on comments.

So if you have a source that's a PM, a large PM source, you might want to keep an eye on what's going on relative to the PM fine standard, because I suspect that EPA is going to lower it to some degree. But the proposed levels that they've suggested, we don't have any problems with the annual or the 24 hour standard at this point.

We have copies of the Annual Report that were available. If anyone wanted one and didn't get one, let us know and we'll get you one before you leave today. I forgot that we were handing these out and I apologize.

So I guess our next meeting will be at Tulsa, at the OSU-Tulsa facility on Greenwood, the same place we've met for the last two or three years. So by that time, we'll be ready to talk about ozone season and we'll have an additional few rule changes that we're going to propose. Any questions from anybody? Thank you for attending today.

MS. MYERS: We are adjourned.

(END OF PROCEEDINGS)