

MINUTES
AIR QUALITY COUNCIL
July 16, 2008
4th Street Clubhouse, 1500 4th Street
Ponca City, Oklahoma

To EQB August 19, 2008
APPROVED by AQC October 15, 2008

Notice of Public Meeting The Air Quality Council convened for its regular meeting at 9:00 a.m. July 16, 2008 in the 4th Street Clubhouse, Ponca 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 November 2, 2007. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith convened the hearings by the Air Quality Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101 - 2-5-118. Ms. Smith entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Mr. David Branecky, Chair, called the meeting to order. Ms. Bruce called roll and a quorum was confirmed.

MEMBERS PRESENT

David Branecky
Montelle Clark
Jim Haught
Laura Worthen Lodes
Bob Lynch
Sharon Myers
Jerry Purkaple
Rick Treeman

MEMBERS ABSENT

VACANCY

DEQ STAFF PRESENT

Eddie Terrill
Beverly Botchlet-Smith
Scott Thomas
Cheryl Bradley
Joyce Sheedy
Max Price

OTHERS PRESENT

Christy Myers, Court Reporter

DEQ STAFF PRESENT

Nancy Marshment
Sarah Penn
Rob Singletary
Dawson Lasseter
Kendall Stegmann
Myrna Bruce

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

Approval of Minutes Mr. Haught made motion to approve as amended with Ms. Lodes making the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

Resolution for Mr. Martin – Mr. Branecky read into the record a resolution acknowledging Mr. Martin’s contribution to the Council.

OAC 252:100-1 General Provisions [AMENDED]

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

Mr. Max Price identified definitions that the proposal would amend in OAC 252:100-1-3, 252:100-1-4 and 252:200-5-1.1. He noted that the changes are housekeeping in nature and asked Council’s approval to forward to the Environmental Quality Board for permanent adoption. Hearing no discussion, Mr. Branecky called for a motion. Ms. Myers made the motion and Dr. Lynch made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100-8 Permits for Part 70 Sources [AMENDED] Dr. Joyce Sheedy indicated changes proposed that would amend Subchapter 8 to correct errors in the existing rule; make changes required by revisions to the federal rule published in the *Federal Register* on November 29, 2005, May 1, 2007, and June 13, 2007; and resolve a conflict between OAC 252:100-8-4(b)(8) and 252:200-8-7.1(d) regarding permit renewal and expiration time periods. Comments received from Council included the need for “ozone transport region” to be defined. Ms. Sarah Penn, staff attorney, explained that the citation for the definition is located in U.S.C.42 §7511c. referencing control of interstate ozone air pollution. Ms. Lodes then made a motion to pass the rule with the changes noted and Ms. Myers made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100-9 Excess Emission Reporting Requirements [AMENDED] Mr. Max Price advised that the proposal would amend OAC 252:100-9 to modify excess emissions reporting requirements to make the rule consistent with the current interpretation of the EPA guidelines on excess emissions. He explained that a workgroup had been working on proposed language and asked that the rulemaking be continued to Council’s next meeting. After comments, Mr. Branecky called for a motion. Mr. Purkapple made the motion to continue and Ms. Lodes made the second.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

OAC 252:100-33 Control of Emission of Nitrogen Oxides Ms. Cheryl Bradley related that the Department proposed to revise Subchapter 33 to resolve issues regarding emissions standards for direct-fired fuel burning equipment, standards for fuel burning equipment that uses more than one type of fuel, and equipment with technological limitations. Ms. Bradley also identified non-substantive changes for consistencies with the other rules in Chapter 100 and corrections to grammatical errors. Mr. Terrill conveyed how staff would be looking at these rule changes and how they would be presented to the Council for permanent approval. Mr. Branecky called for a motion to continue this rulemaking to Council’s October meeting. Motion was made by Ms. Myers and second was made by Mr. Purkapple.

Jerry Purkapple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

Division Director’s Report – Mr. Terrill stated that Council had requested that in future, his report would become part of the transcript. He provided an update on the fish flesh analysis activity; explained that the DC Circuit Court had vacated and remanded the Clean Air Interstate Rule (CAIR) back to the EPA; spoke about climate change and the

Climate Registry; advised that within the next few weeks they hoped to have an audit proposal to the Council Finance Committee; and lastly, commented about the ozone season.

New Business – Mr. Branecky announced that the current Vice-Chair, Rick Treeman, resigned effective July 18, 2008. He thanked Mr. Treeman for his help and support during his time spent on the Council. Mr. Branecky called for nominations for replacement of the Vice-Chair position. Sharon Myers nominated Laura Worthen Lodes and the second was made by Mr. Purkaple.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	Yes	Montelle Clark	Yes
Rick Treeman	Yes	David Branecky	Yes

Mr. Terrill suggested that the October 15 meeting currently scheduled in Broken Bow should be moved to the DEQ office. After spirited discussion, Dr. Lynch moved that the next meeting be held in Oklahoma City at the DEQ. Mr. Haught made the second.

Jerry Purkaple	Yes	Jim Haught	Yes
Laura Lodes	Yes	Bob Lynch	Yes
Sharon Myers	No	Montelle Clark	No
Rick Treeman	Abstain	David Branecky	Yes

Adjournment -- Meeting adjourned at 11:00 a.m.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE REGULARLY SCHEDULED MEETING

OF THE AIR QUALITY

ADVISORY COUNCIL
ITEMS 1-5A
HELD ON July 16, 2008
AT 9:00 A. M.
IN PONCA CITY, OKLAHOMA

* * * * *

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COUNCIL MEMBERS

DAVID BRANECKY, CHAIRMAN
RICK TREEMAN, VICE-CHAIRMAN
JIM HAUGHT, MEMBER
DR. ROBERT LYNCH, MEMBER
SHARON MYERS, MEMBER
JERRY PURKAPLE, MEMBER
LAURA LODES, MEMBER
MONTELLE CLARK, MEMBER

DEQ STAFF

EDDIE TERRILL - DIRECTOR
BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR
MYRNA BRUCE - SECRETARY
CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS
MANAGER
DR. JOYCE SHEEDY - ENGINEER
MAX PRICE - ENVIRONMENTAL PROGRAM
SPECIALIST

PROCEEDINGS

MR. BRANECKY: Good morning.
We'll get this started.

Before we do, I'd like to remind
everyone to turn your cell phones off or
put them on mute.

The first item on the agenda, we'd

ask Myrna to call the roll.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Here.

MS. BRUCE: Laura Lodes.

MS. LODES: Here.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Here.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Here.

MS. BRUCE: Bob Lynch.

DR. LYNCH: Here.

MS. BRUCE: Montelle Clark

MR. CLARK: Here.

MS. BRUCE: And we have a

vacancy, we do have a quorum.

MR. BRANECKY: I'm here too.

MS. BRUCE: David Branecky. That was not the vacancy, sir, I promise.

MR. BRANECKY: Thank you, Myrna. The next item on the agenda is the Approval of the Minutes from our last meeting. Do we have any discussion on the Minutes?

No discussion, I'll ask for a motion for approval.

MR. HAUGHT: I move we approve

the minutes, as written.

MS. LODES: I'll second.

MR. BRANECKY: I have a motion and a second. Myrna, call the roll please.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.

MR. HAUGHT: Yes.

MS. BRUCE: Bob Lynch.

s.

MS. BRUCE: Montelle Clark

MR. CLARK: Yes.

MS. BRUCE: David Branecky.

MR. BRANECKY: Yes.

MS. BRUCE: Motion passed.

MR. BRANECKY: Thank you. The next item is that we would like to just point out that Mr. Gary Martin will no longer be on the Council, he was unable to get reappointed. We had a resolution and a dinner honoring him last night.

In addition, Mr. Treeman has resigned. He has taken another job and has resigned from the Council, so this will be his last Council Meeting. We would like to thank Rick for all his support and help over the years.

So we currently have two vacancies on the Council and we'll be actively trying to fill those.

MR. TERRILL: Yes.

MR. BRANECKY: With that, Beverly, I guess we'll go on to the public hearing portion.

MS. BOTCHLET-SMITH: Good morning, I am Beverly Botchlet-Smith, I am the Assistant Director of Air Quality Division. As such, I will be serving as the Protocol Officer for today's hearings.

The 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, and Section 2-2-201, Sections 2-5-101 through 2-5-118.

Notice of the July 16, 2008 hearings were advertised in 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 the meeting was filed with the Secretary of State on November 2, 2007. The Agenda was duly posted 24 hours prior to the meeting at this facility and at DEQ.

If you wish to make a statement, it

is very important that you complete the form that was at the registration table and we will call upon you at the appropriate time. Audience members please come to the podium and state your name before making a comment.

At this time, we will proceed with what's marked as agenda Item Number 5A on the hearing agenda.

This is OAC 252:100-1; General Provisions.

And OAC 252:100-5; Registration, Emission Inventory and Annual Operating Fees.

Mr. Max Price of our staff will give the presentation.
MR. PRICE: Thank you, Beverly.

Mr. Chairman, Members of the Council, ladies and gentlemen, the Department is proposing to amend the definitions sections OAC 252:100-1-3, 252:100-1-4 and 252:100-1.1.

The definitions for "direct" and "indirect fired" are being moved from Subchapter 19 to Subchapter 1, General

Provisions.

This is being done because these definitions will be used in the proposed Subchapter 33 as well as Subchapter 19.

The other significant change is the addition of a definition for regulated air pollutant to Subchapter 1 because the definition is used in other subchapters.

The definition for regulated air pollutant is also being deleted from Subchapter 5, Registration, Emission Inventory and Annual Operating Fees.

In addition, the abbreviation for nanograms per Joule is being added and the phrase "heat input in" is being deleted from the phrase "heat input in million British thermal units per hour" in OAC 252:100-1-4.

Since these amendments are primarily simple housekeeping, staff asks that the Council vote to send these proposals to the Environmental Quality Board with a recommendation that they be adopted as permanent rules. Thank you.

MS. BOTCHLET-SMITH: At this time, we'll take any questions or comments from the Council.

Hearing none -- I also have not received any notice of comment from the public. Is there anyone that has a question?

Seeing no hands and hearing no comments, David, I'll put it back to you.

MR. BRANECKY: Okay. Well with no discussion we're up for a motion for approval.

MS. MYERS: So moved.

DR. LYNCH: Second.

MR. BRANECKY: All right. I have a motion and a second. Myrna, call the roll, please.

MS. BRUCE: Jerry Purkaple.

MR. PURKAPLE: Yes.

MS. BRUCE: Laura Lodes.

MS. LODES: Yes.

MS. BRUCE: Sharon Myers.

MS. MYERS: Yes.

MS. BRUCE: Rick Treeman.

MR. TREEMAN: Yes.

MS. BRUCE: Jim Haught.
MR. HAUGHT: Yes.
MS. BRUCE: Bob Lynch.
DR. LYNCH: Yes.
MS. BRUCE: Montelle Clark
MR. CLARK: Yes.
MS. BRUCE: David Branecky.
MR. BRANECKY: Yes.
MS. BRUCE: Motion passed.

(Items 1-5A Concluded)

C E R T I F I C A T E
STATE OF OKLAHOMA)
) ss:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified
Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceedings were taken by me in
shorthand and thereafter transcribed under
my direction; that said proceedings were
taken on the 16th day of July, 2008, at
Ponca City, Oklahoma; and that I am neither
attorney for nor relative of any of said
parties, nor otherwise interested in said
action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
18th day of July, 2008.

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

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DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS

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OF THE REGULARLY SCHEDULED MEETING

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OF THE AIR QUALITY

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ADVISORY COUNCIL

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ITEM 5B

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HELD ON July 16, 2008

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AT 9:00 A.M.

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PONCA CITY, OKLAHOMA

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1 COUNCIL MEMBERS

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3 DAVID BRANECKY, CHAIRMAN

4 RICK TREEMAN, VICE-CHAIRMAN

5 JIM HAUGHT, MEMBER

6 DR. ROBERT LYNCH, MEMBER

7 SHARON MYERS, MEMBER

8 JERRY PURKAPLE, MEMBER

9 LAURA LODES, MEMBER

10 MONTELLE CLARK, MEMBER

11

12 DEQ STAFF

13

14 EDDIE TERRILL - DIRECTOR

15 BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR

16 MYRNA BRUCE - SECRETARY

17 CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS

18 MANAGER

19 DR. JOYCE SHEEDY - ENGINEER

20 MAX PRICE - ENVIRONMENTAL PROGRAM

21 SPECIALIST

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PROCEEDINGS

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MS. BOTCHLET-SMITH: The next

item on today's agenda is Number 5B, OAC

252:100-8. This is Permits for Part 70

Sources. And Dr. Joyce Sheedy of the DEQ

staff will make the presentation.

DR. SHEEDY: Mr. Chairman,

Members of the Council, ladies and

gentlemen, we are proposing to amend

Subchapter 8 to correct errors in the

existing rules; make the changes required

by revisions to the federal Title V, PSD

and NSR rules published in the Federal

Register on November 29, 2005, May 1, 2007,

and June 13, 2007; and resolve a conflict

regarding permit renewal and expiration

time periods.

On March 27, 2008 EPA published its

finding that Oklahoma's State

Implementation Plan did not include all the

basic program elements for implementation

of the 1997 8-hour ozone NAAQS. The

proposed changes address these

deficiencies.

We are proposing to follow the subsequent changes.

1 On Page 3, in the third line of
2 Paragraph (A) (I) in the definition of
3 "major source" in OAC 252:100-8-2, the
4 draft rule in your packet includes striking
5 the words "10 tons per year"; however for
6 improved clarity, we now propose to leave
7 "10 tons per year" as it is and strike the
8 lower case "TPY" in parentheses and replace
9 it with upper case "TPY" in parentheses.

10 On Page 3, Paragraph (B) in the
11 definition of "major source" also in OAC
12 252:100-8-2. We replaced "that fraction of
13 particulate matter that exhibits an average
14 aerodynamic particle diameter of more than
15 10 micrometers" with "GPM" which we wish to
16 change to "gross particulate matter".
17 Gross particulate matter is defined as
18 particulate matter with an aerodynamic
19 diameter greater than 10 micrometers.

20 On Page 4, the proposed change to
21 paragraph (B) (xx) of the definition of
22 "major source" for Part 70 sources, was
23 revised to exclude certain ethanol
24 production facilities from being considered
25 chemical process plants and thus the

1 fugitive emissions from these facilities
2 will no longer be used to determine if a
3 source is major for Part 70. This is from
4 the 5-1-07 Federal Register.

5 On Page 5, the definition of
6 "responsible official" has been deleted
7 since it is essentially the same as the
8 definition in Subchapter 1.

9 On Pages 8 and 9, the time period in
10 OAC 252:100-8-4(b) (8) for a timely
11 application for permit renewal is 6 months
12 prior to the date of permit expiration and
13 the time period in 252:100-8-7.1(d) (1) for
14 a timely renewal application is 180 days
15 before the date of expiration. Although
16 used interchangeably, the two time periods
17 are not necessarily the same. Since 180
18 days is the more precise term, the 6 months
19 time period in OAC 252:100-8-4(b) (8) has
20 been changed to 180 days. For consistency
21 18 months has also been changed to 540
22 days.

23 On Page 10, the last sentence of OAC
24 252:100-8-30(b) (5) was deleted in the
25 revision to the federal rule published in

1 the Federal Register on June 13, 2007, in
2 response to the DC Circuit Court Decision
3 of June 24, 2005. We, therefore, propose
4 to delete this sentence from our rule.

5 On Page 10, in the second sentence
6 in the first paragraph of 252:100-8-31, we
7 propose to replace "Subsection" with
8 "Section" to correct an error.

9 On Page 15, in Paragraph 8-1 under
10 (A) (I) the definition of "major
11 modification" in OAC 252:100-8-31 is
12 changed to indicate that a major stationary
13 source that is significant for NOx shall be
14 considered significant for ozone. This is
15 from the November 29, 2005 Federal
16 Register.

17 On Page 16, in (A) (i) (III) of the
18 definition of "major stationary source" in
19 252:100-8-31 was revised to exclude certain
20 ethanol production facilities from being
21 considered chemical process plants and this
22 changed their PSD threshold emission rate
23 from 100 tons per year to 250 tons per
24 year. This change is from the June 1, 2007
25 Federal Register.

1 On Page 17, Paragraph (B) of the
2 definition of "major stationary source"
3 being 252:100-8-31, was changed to indicate
4 that a major stationary source that is
5 significant for NOx shall be considered
6 significant for ozone. This is from the
7 November 29, 2005 Federal Register.

8 On Page 19, Paragraph (A)(i) of the
9 definition of regulated NSR pollutant was
10 changed to list NOx as a precursor for
11 ozone. This is also from the 11-29-05
12 Federal Register.

13 On Page 20, Paragraph (A)(v) of the
14 definition of "significant" in 252:100-8-31
15 was changed to list the significant level
16 for ozone as 40 tons per year of VOC or
17 NOx. This is based on the revision to the
18 federal rule contained in the November 29,
19 2005 Federal Register.

20 On Page 21, Subsection (c) of OAC
21 252:100-8-33 was changed to allow exemption
22 from some air quality analysis requirements
23 for ozone if the air quality impacts are
24 less than 100 tons per year of NOx. This
25 change is from the November 29, 2005

1 Federal Register.

2 On Page 23, the incorporation by
3 reference date in 252:100-8-38(a) was
4 updated to July 2, 2007 for consistency
5 with IBR dates in Part 9.

6 On Page 23, language was added to
7 252:100-8-38(c) (3) to clarify that the term
8 "EPA" in section 40 CFR 51.166(w) which was
9 incorporated by reference, is usually
10 synonymous with DEQ unless the context
11 clearly indicates that EPA means EPA.

12 On Page 25, the last sentence of OAC
13 252:100-8-50(b) (5) was deleted in the
14 revision to the federal rule published in
15 the Federal Register on June 13, 2007, in
16 response to the DC Circuit Court Decision
17 of June 24, 2005. We, therefore, propose
18 to delete this sentence from our rule.

19 On Page 25, language was added to
20 OAC 252:100-8-50.1(b) (3) to clarify that
21 the term "EPA" in 40 CFR 51.165, portions
22 of which were incorporated by reference is
23 usually synonymous with DEQ unless the
24 context clearly indicates that EPA means
25 EPA.

1 On Page 25, the incorporation by
2 reference date in the first paragraph of
3 252:100-8-51 was updated to include the
4 later changes made to the federal rule.

5 On Page 26, new paragraphs (c) and
6 (D) were added to the definition of major
7 modification in 252:100-8-51.

8 Paragraph (c), in conjunction with
9 252:100-8-54.1(a), makes the VOC
10 requirements in Part 9 of Subchapter 8 also
11 apply to NOx emissions and paragraph (D)
12 provides that any physical change or change
13 in operation of a major source of VOC that
14 results in any increase in VOC emissions
15 shall be considered a major modification
16 for ozone if the source is located in an
17 extreme ozone nonattainment area. These
18 changes are based on the revision to the
19 Federal Register that was dated 11-29-05.

20 On Page 27, we propose to update the
21 incorporation by reference date in
22 252:100-8-51.1(a) to include later changes
23 made in the federal rule.

24 On Page 27 new subsection
25 252:100-8-51.1(b) incorporates by reference

1 the emission offset requirements in 40 CFR
2 51.165(a)(9). This is from the November
3 29, 2005 Federal Register.

4 On Page 27, we propose to update the
5 incorporation by reference date in
6 252:100-8-52(a) for consistency with other
7 IBR dates in Part 9.

8 On Page 28, we propose to correct an
9 error to OAC 252:100-8-52(c) by replacing
10 OAC 252:100-8-52(1) with OAC
11 252:100-8-52(a).

12 On Page 28, we propose to update the
13 incorporation by reference date in OAC
14 252:100-8-53 to include later changes made
15 in the federal rule.

16 On Page 28, we propose to correct an
17 error in OAC 252:100-8-53(c) by replacing
18 OAC 252:100-8-52(4) with OAC
19 252:100-8-52(d).

20 On Pages 28 and 29, a new subsection
21 252:100-8-54.1(a) makes the requirements of
22 Part 9 to major sources and modifications
23 of VOC applicable to NOx in certain
24 circumstances. This was from the November
25 29, 2005 Federal Register.

1 On Page 29, the new subsection OAC
2 252:100-8-54.1(b) makes the PM-10
3 requirements in Part 9 of Subchapter 8 also
4 apply to PM-10 precursors. This was added
5 in response to changes in the federal rule
6 contained in the November 29, 2005 Federal
7 Register.

8 On Page 29, we propose to update the
9 incorporation by reference date in
10 252:100-8-55(b) for consistency with other
11 IBR dates in Part 9.

12 On Page 29, an error in a reference
13 was corrected in OAC 252:100-8-55(c) (1)
14 and (2) and the dates of incorporation on
15 Page 29 has been updated for consistency
16 with other IBR dates in Part 9 of
17 Subchapter 8.

18 Also on Page 29, we propose to
19 update the incorporation by reference date
20 in 252:100-8-55(c) for consistency with
21 other IBR Part 9 dates.

22 Again on Page 29, we propose to
23 update the incorporation by reference to
24 252:100-8-56 for consistency with other IBR
25 dates.

1 Several non-substantive scriveners
2 errors were also corrected. Except as
3 noted earlier, the lower case "TPY" was
4 replaced with an uppercase "TPY" throughout
5 the revision.

6 Notice of the proposed rule changes
7 was published in the Oklahoma Register on
8 June 16, 2008 and comments were requested
9 from members of the public.

10 We received comments from EPA in
11 which they stated they have no comments.
12 We received no other written comments, to
13 date.

14 Although this is the first time this
15 proposed revision to Subchapter 8 has been
16 presented to the council, because it
17 consists primarily of corrections of errors
18 and to correct deficiencies in our program
19 brought about by revisions to federal
20 regulations, we request that the Council
21 recommend this revision to the
22 Environmental Quality Board for adoption as
23 a permanent rule. Thank you.

24 MS. BOTCHLET-SMITH: Do we have
25 questions from the Council?

1 MS. LODES: I have some comments.
2 Under insignificant activities, you have
3 tons per year spelled out for both the
4 fives (5's).

5 On Page 2, since that's the first
6 place the "tons per year" seems to appear,
7 why don't you put the parenthesis "TPY" on
8 that one. I'm being nit-picky. Under
9 insignificant activities, to be consistent
10 with where you're changing it.

11 DR. SHEEDY: Insignificant
12 activities.

13 MS. LODES: At the bottom of the
14 page.

15 DR. SHEEDY: Yeah, I don't see
16 why we can't do that.

17 MS. LODES: Okay. Just to be
18 consistent with where -- since you went to
19 the effort to change it everywhere else.

20 DR. SHEEDY: I'm sorry, I just
21 missed that.

22 MS. LODES: Okay. And then the
23 only other question I have is on Page 29
24 where we get into adding ozone -- for major
25 modifications of NOx and other transport

1 region or in an ozone nonattainment area.

2 DR. SHEEDY: On Page 29?

3 MS. LODES: Yes. The top of the
4 page.

5 DR. SHEEDY: Okay.

6 MS. LODES: Where is ozone
7 transport region defined; do we know?

8 DR. SHEEDY: At this point in
9 time, I don't know where it's defined, or
10 if it's defined.

11 MS. LODES: Okay.

12 MR. HAUGHT: I was going to ask
13 the same thing, the same reference is on
14 Page 26, in (c) the first time I saw --
15 when I read through it. And I got the same
16 question. It's just not a term I'm
17 familiar with the definition of.

18 MS. LODES: I just want to know,
19 I guess, how liberally or conservatively is
20 that defined in regards to Oklahoma.
21 Because all of Oklahoma could be defined as
22 an ozone transport region from Texas. And
23 are we going to put ourselves into a really
24 stringent --

25 DR. SHEEDY: Does anyone know the

1 answer to that question?

2 MR. TERRILL: I think it's
3 defined in the Clean Air Act, if I'm not
4 mistaken. I think it is in the ozone, but
5 I'm not 100 percent sure about that. But
6 I'm pretty sure this came -- this came
7 directly from the Federal Register; didn't
8 it Joyce?

9 DR. SHEEDY: Yes, it did.

10 MR. TERRILL: I'm pretty sure
11 that that's defined in the Clean Air Act.
12 So I don't know that we're going to be able
13 to change that even if we wanted to. I
14 thought about bringing the Clean Air Act
15 with me. I had it laid out and I didn't do
16 it. I don't know what made me even think
17 about it this time.

18 MS. LODES: And my big question
19 is, is Oklahoma an ozone transport region
20 or not under this definition?

21 MR. TERRILL: Well, according to
22 the modeling they did for CAIR, no. But
23 then CAIR doesn't exist anymore.

24 MS. LODES: Right.

25 MR. TERRILL: I think that's

1 decided at a time when you have a
2 nonattainment situation, either within the
3 state or in a bordering state. So, again
4 I'm almost positive that that's defined in
5 the Clean Air Act as -- is where that came
6 from.

7 MR. THOMAS: Eddie, I'm pretty
8 sure that they might also be talking about
9 the formalized ozone transport regions in
10 which states have joined together in
11 compacts like the Northeast and where they
12 have made a large -- you know
13 nonattainment area with those problems. I
14 know we have the ozone northeast-type of
15 thing.

16 MR. TERRILL: So the
17 OTC -- the Ozone Transport Commission?

18 MR. THOMAS: Yeah. I don't know
19 how (inaudible).

20 MR. TERRILL: That may be
21 correct. It may be in relation to that.

22 MR. HAUGHT: We're used to seeing
23 real defined boundaries and borders for
24 nonattainment areas. But now the ozone
25 transport -- I'm just not familiar with.

1 MS. LODES: I'm just worried
2 about how nebulous -- I realize it's
3 probably the Clean Air Act, but how
4 nebulous that is and what does that mean
5 the way we have it in here --

6 MR. HAUGHT: If we don't define
7 it --

8 (Both talking at the same time)

9 MS. LODES: Whether they're
10 permitting applications of we don't put a
11 citation as to where this is defined.
12 Because you know is, say Walters, Oklahoma
13 a transport region.

14 MR. TERRILL: I don't know, I
15 can't see that. To be honest with you, I
16 don't think that this is that big of a deal
17 because I think in the overall scheme of
18 doing your analysis, the definition of that
19 is going to be minuscule compared to the
20 other issues you are going to have.
21 Obviously, we're doing this in response to
22 the notice in the Federal Register of the
23 deficiency in our SIP.

24 Joyce, if we wanted to hold this
25 over, is there going to be a big -- I don't

1 know that there would be a big concern if
2 we wanted to take a look at this. I've got
3 a feeling that we may -- if we wanted to
4 define it, it's probably going to be a
5 repetition of what already exists, or maybe
6 a reference back to where this is at in
7 either the Clean Air Act or the Federal
8 Register.

9 MS. LODES: Actually, I'd just
10 like to see a citation to where it is in
11 the Federal Register or the Clean Air Act,
12 so that you've got an idea of where to go
13 look.

14 MR. PRICE: I have a proposal
15 here. The only person that really knows
16 about this is Leon Ashford, and I think he
17 is in the office. I can call him and ask
18 him precisely about that. He's not there?
19 Okay.

20 MS. BRADLEY: With regard to the
21 consequence, EPA published the findings of
22 deficiency, which sets a two-year clock for
23 the state to have approved SIP provision in
24 place.

25 And with regard to holding it over,

1 ultimately it adds more work for us for the
2 next meeting. That's my concern. However,
3 it will not change ultimately the effective
4 date of the rule and the timeline for
5 submitting the change for approval as a SIP
6 provision.

7 MS. LODES: I would really like
8 to see a citation as to where it is. I
9 mean, even if it is just a citation in the
10 Clean Air Act so that we've got something
11 spelled out when going to look at it, to
12 try to make your determination.

13 MR. BRANECKY: Could we say as
14 defined in the Clean Air Act; be more
15 specific? Or is defined okay?

16 MS. LODES: Are we totally sure
17 it is defined in the Clean Air Act?

18 MR. BRANECKY: Is there any way
19 we can find out this morning?

20 MS. BOTCHLET-SMITH: Let's go
21 ahead and call for any questions from the
22 public.

23 MR. BRANECKY: What we can do --
24 we can, I guess -- do you want me to table
25 this and go on and come back to it?

1 MS. BOTCHLET-SMITH: We could
2 table it but I'll go ahead and take
3 comments.

4 MR. BRANECKY: We can take
5 comments and then we can --

6 MR. CLARK: I actually have one
7 question.

8 MS. BOTCHLET-SMITH: I'm sorry
9 Montelle has a question.

10 MR. CLARK: It's a minor
11 question, but under the definitions, Dr.
12 Sheedy, this is the first time I've seen a
13 reference to -- maybe it's in here in other
14 places too, but extreme ozone nonattainment
15 area. I wondered if extreme is a technical
16 definition or is it more descriptive?

17 DR. SHEEDY: This is not as
18 simple as one would hope. Extreme ozone
19 nonattainment area is defined in the Clean
20 Air Act -- there is a table that has it on
21 it. However, it's for the one-hour
22 standard, which doesn't exist anymore. And
23 not the eight-hour standard. It's not as
24 simple as us writing a definition into here
25 or we cited that. It actually already is

1 cited where you can find in the --

2 MS. BRADLEY: Joyce, would you
3 like for me to explain that?

4 DR. SHEEDY: Yes, would you like
5 to? You're more familiar with this than I
6 am.

7 MS. BRADLEY: Extreme
8 nonattainment areas definition made by EPA.

9 The power or the authority for
10 making those designations is included in
11 the rule, under the Subpart 2, Part D,
12 Title 1. And as Joyce alluded to when the
13 Clean Air Act amendments were adopted, they
14 were tailored from one-hour standards.
15 Subsequent to that we went to the
16 eight-hour ozone standard. So we had case
17 law and other changes so it's not -- coming
18 up with a specific definition would be
19 difficult for us. We have a moving target,
20 and since we do not as an Agency make the
21 designations, those are made by EPA. Under
22 this authority, we evaluated the pros and
23 cons and have elected not to include an
24 additional definition. Because it would be
25 limiting for us. And when the extreme

1 nonattainment areas are designated, it's
2 very (inaudible) and a national notice in
3 the Federal Register. So at this point, I
4 think we've got enough to actually identify
5 that. And that information is readily
6 available. And the boundaries for those
7 areas will be clear.

8 MR. CLARK: We don't have any
9 extreme nonattainment in Oklahoma; correct?

10 MS. BRADLEY: No. I don't expect
11 that we would.

12 MS. LODES: I don't even know,
13 Montelle, that Houston or Los Angeles are
14 extreme. I think they're just severe;
15 aren't they?

16 MS. BOTCHLET-SMITH: It's
17 marginal, moderate, severe and extreme are
18 I think the four EPA designations, and it
19 spelled out by County when you're looking
20 at the Clean Air Act for the tables.

21 MR. CLARK: Okay.

22 MS. BRADLEY: Houston, I think
23 was just bumped up or was proposed to bump
24 and they did not go to extreme.

25 MS. LODES: Well, they dropped

1 all the way down I think to marginal, so
2 they went back to 100 ton threshold for
3 Title V to coming in from the 25 ton, then
4 with the change they went back to 25 ton.

5 MS. BOTCHLET-SMITH: Do we have
6 any other questions?

7 MS. LODES: So it's not a concern
8 here.

9 MR. CLARK: No, no. I have just
10 not ran across that before.

11 MS. BOTCHLET-SMITH: Do we have
12 any other questions that we want to ask
13 right now about other parts of the rule;
14 from the Council?

15 MR. BRANECKY: I would then
16 suggest that we table this and then come
17 back to it later on this morning, while
18 staff is trying to find an answer to it.
19 So do we need to take vote on that or how
20 do we table something?

21 MS. BOTCHLET-SMITH: I think you
22 need a motion to table a rule, a second,
23 and then we'll bring it back.

24 Let's take a short break, ten
25 minutes.

1 MR. BRANECKY: It's easier that
2 way, take a break.

3 (Break)

4 MS. PENN: In response to your
5 question, the cite is found in Section
6 184(a). And the cite that we would like to
7 use in the rule to reference ozone
8 transport region would be U.S.C. 42,
9 Section 7511c, period. And this is -- that
10 particular section references control of
11 interstate ozone air pollution. And under
12 Section A, it states ozone transport
13 regions. And it defines ozone transport
14 regions as a certain block of states. I
15 don't know how to say this, but they're
16 simply the northeast region of the country.
17 And then Section B references the
18 opportunity for -- it essentially explains
19 how other states would necessarily be put
20 into the ozone transport region. Oklahoma
21 is not in that, and we are not listed as
22 one of the ozone transport region states.
23 So, therefore, there is really no
24 applicability to us. It could happen in
25 the future, but it seems remote based on

1 our standard of the laws. And so if you
2 reduce reference U.S.C. 42, Section 7511c,
3 period, that I believe would address your
4 concern. Is that all right?

5 MS. LODES: That's fine.

6 MS. BOTCHLET-SMITH: Any other
7 questions from the Council? I didn't have
8 any notice of comment from the public.
9 During our break, I didn't receive any
10 additional ones. But if someone has a
11 comment -- I'm looking for hands. Seeing
12 none, David, the Council has no further
13 comments or discussion. I'll give it back
14 to you.

15 MR. BRANECKY: Okay. So if there
16 is no further discussion from the Council,
17 I would entertain a motion.

18 MS. LODES: I move to pass the
19 rule with the changes noted to the "tons
20 per year" in "insignificant activities" and
21 with a citation added under 252:100-8-51,
22 definitions, under (C). And as well as
23 adding a citation under 252:100-8-54.1(a),
24 citation for ozone transport region.

25 MS. MYERS: I second it.

1 MR. BRANECKY: Okay. Did staff
2 get that? Did you understand the need for
3 the additions?

4 DR. SHEEDY: I think so.

5 MR. BRANECKY: Okay. All right.
6 I just wanted to make sure. I have a
7 motion and a second. Myrna, will you call
8 roll, please.

9 MS. BRUCE: Jerry Purkaple.

10 MR. PURKAPLE: Yes.

11 MS. BRUCE: Laura Lodes.

12 MS. LODES: Yes.

13 MS. BRUCE: Sharon Myers.

14 MS. MYERS: Yes.

15 MS. BRUCE: Rick Treeman.

16 MR. TREEMAN: Yes.

17 MS. BRUCE: Jim Haught.

18 MR. HAUGHT: Yes.

19 MS. BRUCE: Bob Lynch.

20 DR. LYNCH: Yes.

21 MS. BRUCE: Montelle Clark

22 MR. CLARK: Yes.

23 MS. BRUCE: David Branecky.

24 MR. BRANECKY: Yes.

25 MS. BRUCE: Motion passed.

1 (Item 5B Concluded)
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1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 STATE OF OKLAHOMA
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6 * * * * *
7 TRANSCRIPT OF PROCEEDINGS
8 OF THE REGULARLY SCHEDULED MEETING
9 OF THE AIR QUALITY
10 ADVISORY COUNCIL
11 ITEM 5C
12 HELD ON JULY 16, 2008
13 AT 9:00 A.M.
14 IN PONCA CITY, OKLAHOMA
15 * * * * *
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22 MYERS REPORTING SERVICE
23 Christy Myers, CSR
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MS. BOTCHLET-SMITH: The next

item on the Agenda is OAC 252:100-9. This

is Excess Emission Reporting Requirements,

and presentation will be made by Mr. Max

Price of our staff.

MR. PRICE: Thank you, Beverly.

Mr. Chairman, Members of the Council,

ladies and gentlemen, the Department is

proposing changes to OAC 252:100-9, Excess

Emission Reporting Requirements, to make

the rule consistent with the current

interpretation of the EPA guidelines on

excess emissions.

At the April and October, 2007 Air

Quality Advisory Council Meetings, staff

asked for public comment on the existing

rule.

On November 26, 2007, the Department

held a public meeting to present

information on the options being considered

and to provide an additional opportunity

for informal comments and discussion.

1 At the October 17th, 2007 Council
2 Meeting, it was decided that the Subchapter
3 9 workgroup would be formed.

4 The workgroup is composed of select
5 Air Quality Division and legal staff,
6 interested parties and Council Members.

7 The Subchapter 9 workgroup has met
8 fives times this year; January 9th and
9 31st, February 22nd, May 30th and July
10 11th.

11 This year at the January 17th Air
12 Quality Advisory Council Meeting, staff
13 first proposed amendments to Subchapter 9.

14 Council tabled the proposals until
15 this meeting to allow more time for the
16 workgroup to craft a better excess emission
17 and reporting rule.

18 This version of the proposal differs
19 from the January draft in that it includes
20 a provision for reducing duplicate
21 reporting when applicable NSPS or NESHAP
22 requirements provide the same information
23 that is required in the reporting
24 requirements of this proposed subchapter.

25 In addition, staff believes that the

1 proposal would benefit from the addition of
2 language setting a threshold for the
3 emitted reporting of excess emissions
4 contained in the proposed OAC
5 252:100-9-7(a). And I believe that
6 language is on Page 4 in your proposed
7 rule. Copies have been provided to the
8 Council and the public.

9 Staff and the workgroup believe that
10 the threshold levels in the draft language
11 are conservative and aren't likely to cause
12 an exceedance of any applicable emission
13 standard.

14 In addition, the draft language will
15 lessen the reporting burden to the facility
16 owners.

17 To allow time for staff and the
18 workgroup to finalize this language and
19 incorporate into the proposed rule, staff
20 asked that the Council carry this proposal
21 over to the next Air Quality Council
22 Meeting. Thank you.

23 MS. BOTCHLET-SMITH: At this time
24 we'll take comments or questions from the
25 Council.

1 MR. PURKAPLE: I don't know if
2 there's any feedback here. Max, a couple
3 questions, on Pages 6 and 7 of the rule.
4 For example, on Page 7, under B, that very
5 first sentence towards the last says the
6 owner or operator of a facility must meet
7 the notification requirements of OAC
8 252:100-9-7. Section C has the same
9 phrase, "must meet the notification
10 requirements." And then on Page 7, Section
11 E, also references the notification.

12 Is that referring to all of 100-9-7
13 or is it just 100-9-7(a) which is immediate
14 notice?

15 MR. PRICE: It is actually
16 referring to the entire section.

17 MR. PURKAPLE: That seems a
18 little confusing to me if I read through it
19 that -- I mean, I look at 100-9-7, I would
20 look for something relative to notice and
21 that seems to be part (a); part (b) is the
22 actual event report.

23 MR. PRICE: There are some other
24 errors like that -- not errors, but
25 meanings that were not exactly -- this

1 wasn't --

2 MR. PURKAPLE: Okay.

3 MR. PRICE: That's one of the
4 things I've noted that we probably need to
5 take care of at the next meeting.

6 Actually, the language should read the
7 "requirements of".

8 MR. PURKAPLE: Yes. I think that
9 would help, that would tighten it up.
10 Otherwise you're left with the fact that
11 immediate notices are not required for
12 startups and shutdowns if you have the
13 affirmative defense comment over here that
14 says you have to meet notification
15 operations.

16 MR. PRICE: Right. There's a lot
17 of little subtleties like that that we'll
18 be correcting.

19 MR. PURKAPLE: Then another
20 question on Page 4, this would be 100-9-
21 7(b) where it says at the end of that after
22 receiving a written request prior to the 30
23 day deadline, a Director may grant an
24 extension.

25 Is there any thought about

1 tightening up the timetable there? If we
2 send in a notice, would we expect to have a
3 response back within a certain amount of
4 time? If I sent in a notice and yet didn't
5 receive a response back from the Director,
6 would it be assumed that it would be okay,
7 unless we received an affirmative no?

8 MR. TERRILL: I would never
9 assume that because until you get it in
10 writing you really don't know that it
11 didn't get lost in transit. I suspect that
12 we didn't put something in here, because
13 we're probably going to be dependent upon
14 not only our own staff making
15 recommendations but the concurrence of EPA
16 and that may take ten days or that may take
17 a hundred days. So if we were to put
18 something in there, it would probably be
19 with the understanding that that may have
20 to be extended, we could probably do
21 something like that.

22 Let me point out too for those of
23 you -- it's a little bit confusing this
24 time because we had an addition that we
25 wanted to make after the rule was

1 published. And we've been chastised by
2 previous Councils about having more than
3 one copy of a rule that we bring to the
4 Council. It is confusing to the Council
5 and the public. So what we elected to do
6 is, we have a one-page sheet that outlines
7 incorporations relative to the reportable
8 quantity that will be made into the next
9 draft, that should be posted in probably a
10 month or so. We may try to come out with a
11 draft quicker than we would for the final
12 draft that will be going to the Council in
13 October for comment. But you need to be
14 aware that we do have one-page that goes
15 along with this that outlines how we
16 anticipate the reportable quantity section
17 of this to work. We still have to take a
18 final draft, if you will, to EPA for their
19 concurrence both on the compliance side and
20 the enforcement side. So enforcement and
21 legal at EPA will take a look at this for
22 concurrence, because this is a requirement
23 that states take a look at this rule.
24 We've still got a little bit more work to
25 do but we're real close to having a final

1 draft and we're really going to try to pass
2 this rule in October.

3 MS. BOTCHLET-SMITH: Other
4 questions from the Council? Okay.

5 From the public, Grover Campbell.

6 MR. CAMPBELL: I'll pass.

7 MS. BOTCHLET-SMITH: Okay. He
8 declines to comment this time. Anyone else
9 from the public wishing to comment on this?
10 Julia?

11 MS. BEVERS: I'm Julia Bevers and
12 I'm speaking on behalf of EFO today. I
13 just would like to express appreciation to
14 the staff for supporting the workgroup that
15 worked on this rule and their willingness
16 to listen and understand our industries
17 position on this. And I just want to thank
18 you.

19 MS. BOTCHLET-SMITH: Any other
20 comments from the public? David, I don't
21 see any other hands out there.

22 MR. BRANECKY: All right. Any
23 further discussion from the Council?

24 MR. PURKAPLE: I just have a
25 question on the revised language here, for

1 those that have been on the workgroup.
2 100:9-7(a)(1)(B) talks about not having to
3 make notification if you're less than 200
4 pounds of the relevant regulated pollutant
5 for any 24 hour period. So an application,
6 that would be if you had a permit limit of
7 X, then a notification would be required if
8 you were less than 200 pounds above X in
9 any 24 hour period; is that the intent of
10 that?

11 MR. PRICE: Yes, sir. Actually,
12 we set two separate limits here. We set a
13 ten percent above the standard, which is a
14 short-term thing. It's usually a per hour
15 pounds per million BTUs. If you exceed
16 that then you have to do an immediate
17 report. But because we have large
18 facilities, that could apt to, you know,
19 several hundred thousand -- several
20 thousand tons. So we put a cap to prevent
21 any possible level of exceeding any AGS
22 (inaudible) and that is based on 24 hours.

23

24 In other words, the point is it's
25 actually a cap to prevent the large

1 facilities -- if they break this cap then
2 they have to notify us no matter if it's
3 just one percent. That's why we did that.

4 MR. PURKAPLE: Okay. So it's ten
5 percent above their limit not to exceed 200
6 pounds?

7 MR. PRICE: Not to exceed 200
8 pounds; correct, sir.

9 MS. LODES: 200 pounds over the
10 limit?

11 MR. PRICE: 200 pounds in any 24
12 hours, where they go over the limit. In
13 other words, if you have a spike, and then
14 it drops back down within 24 hours and it's
15 not over 200 pounds and it doesn't go above
16 the ten percent where your standard is,
17 then you don't have to do the follow-up.

18 ***myrna's tape***

19 MR. TREEMAN: The only other
20 thing that I can think of, Max, is you
21 might put that 200 pounds directly after
22 you put your limit of standard and then put
23 the opacity in, because it's real hard to
24 quantify.

25 MR. PRICE: That's a good point.

1 In fact, I was thinking about making out a
2 separate thing leading past the -- because
3 it's own separate creation.

4 MS. BOTCHLET-SMITH: Any other
5 comments or questions from the Council?

6 MR. BRANECKY: Okay. With that
7 I'll entertain a motion. Staff has asked
8 that we continue this Subchapter 9 until
9 the October meeting.

10 MR. PURKAPLE: I move to continue
11 until the October meeting.

12 MS. LODES: I'll second.

13 MR. BRANECKY: All right. I have
14 a motion and a second. Myrna.

15 MS. BRUCE: Jerry Purkaple.

16 MR. PURKAPLE: Yes.

17 MS. BRUCE: Laura Lodes.

18 MS. LODES: Yes.

19 MS. BRUCE: Sharon Myers.

20 MS. MYERS: Yes.

21 MS. BRUCE: Rick Treeman.

22 MR. TREEMAN: Yes.

23 MS. BRUCE: Jim Haught.

24 MR. HAUGHT: Yes.

25 MS. BRUCE: Bob Lynch.

1 DR. LYNCH: Yes.
2 MS. BRUCE: Montelle Clark
3 MR. CLARK: Yes.
4 MS. BRUCE: David Branecky.
5 MR. BRANECKY: Yes.
6 MS. BRUCE: Motion passed.

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8 (Item 5C Concluded)

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1 DEPARTMENT OF ENVIRONMENTAL QUALITY

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TRANSCRIPT OF PROCEEDINGS

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OF THE REGULARLY SCHEDULED MEETING

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OF THE AIR QUALITY

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ADVISORY COUNCIL

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ITEM 5D

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HELD ON July 16, 2008

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AT 9:00 A.M.

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IN PONCA CITY, OKLAHOMA

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MS. BOTCHLET-SMITH: The next

item on the agenda is Number 5D. This is

OAC 252:100-33, Control of Emission of

Nitrogen Oxides. And presentation will be

made by Ms. Cheryl Bradley.

MS. BRADLEY: Mr. Chairman,

Members of the Council, ladies and

gentlemen, we are proposing to amend

Subchapter 33 to resolve issues regarding

NOx emission limits for direct-fired

fuel-burning equipment and equipment with

technological limitations. We are also

proposing some non-substantive changes for

consistencies with the other rules in

Chapter 100 and proposed to correct some

grammatical errors.

These changes were first presented

to the Council at the Council meeting held

on January 17, 2008. That hearing was

continued until today.

We have made some substantive

changes to the revision presented at the

1 January 2008 hearing.

2 These are the changes to our
3 original proposal.

4 We propose to move the definitions
5 of direct-fired and indirect-fired to
6 Subchapter 1, instead they were formerly in
7 Subchapter 33 -- in the last revision to
8 33. Since these definitions are used in
9 more than one subchapter, you've approved
10 that change to it in your action on
11 Subchapters 1 and 5.

12 We propose to add a definition for
13 solid fossil fuel to OAC 252:100-33-1.1 on
14 Page 1. And we propose to leave out the
15 proposed definition of technological
16 limitation.

17 In OAC 252:100-33-2(b) on Page 2, we
18 propose to include maintenance as one of
19 the conditions that might have
20 technological limitations.

21 The following are the substantive
22 changes that were presented at the January
23 Council Meeting.

24 In OAC 252:100-33-1.2(b) on Page 1,
25 we are proposing to create a conditional

1 exemption that would apply to all
2 direct-fired fuel-burning equipment. We
3 propose to provide a means for direct-fired
4 fuel-burning equipment to qualify for
5 exemption from emission limits contained in
6 Subchapter 33. To be exempt, the
7 direct-fired fuel-burning equipment must be
8 subject to Best Available Control
9 Technology contained in a currently
10 applicable Air Quality Division permit and
11 the emissions from such equipment must not
12 cause or contribute to an exceedance of any
13 National Ambient Air Quality Standard or
14 PSD increment.

15 On Page 2, in OAC 252:100-33-2(a) --
16 it's actually on Page 1 of Subsection (b).
17 Subsection (b) sets forth the requirements
18 for fuel-burning equipment that because of
19 technological limitations cannot meet the
20 emission limits in Subchapter 33 during
21 startup, shutdown or maintenance.
22 Subsection (b) allows such fuel-burning
23 equipment to comply instead with BACT for
24 startup, shutdown or maintenance. BACT
25 must be contained in a currently applicable

1 Air Quality Division permit and the
2 emissions from this equipment must not
3 cause or contribute to an exceedance of a
4 NAAQS or a PSD increment.

5 After publication of the proposed
6 rule on June 16, the Department became
7 aware of an issue that may not be resolved
8 by the proposed amendments. Sources with
9 low NOx burners or ultra low NOx burners
10 may comply with the NOx pounds per hour and
11 tons per year emission limits in their
12 permits but be unable to meet but be unable
13 to meet additional limitations in
14 Subchapter 33. It has been determined that
15 this operating mode is not always
16 characterized as a startup, shutdown or
17 maintenance operation and staff is
18 currently evaluating potential solutions to
19 this particular situation.

20 Notice for the proposed rule changes
21 was published in the Oklahoma Register on
22 June 16, 2008 and comments were requested
23 from members of the public.

24 Due to the shared issues between
25 Subchapter 9 and Subchapter 33 regarding

1 technological limitations and excess
2 emissions, and the outstanding issue
3 mentioned earlier, we ask the Council to
4 continue the hearing on this rule until its
5 next meeting. Thank you.

6 MS. BOTCHLET-SMITH: Do we have
7 any questions for Ms. Bradley from the
8 Council?

9 MR. PURKAPLE: Question. On Page
10 2, Number (4), on the equation at the very
11 end, the NO₂ limit; is that equation
12 correct?

13 MS. BRADLEY: I believe it is.
14 What would be your question?

15 MR. PURKAPLE: So it's .2, and
16 .3, and then .7?

17 MS. BRADLEY: Yes.

18 MR. PURKAPLE: Okay. That is
19 actually correct?

20 MS. BRADLEY: That is correct.
21 Each of the individual rules -- the
22 quantity of their -- their proportion
23 emissions to the overall is related to that
24 particular constants.

25 MR. PURKAPLE: So you're not

1 looking for 100 percent then?

2 MS. BRADLEY: No.

3 MR. PURKAPLE: Okay.

4 MS. BRADLEY: I believe that

5 portion relates to the NOx emissions from

6 that particular category of fuel source.

7 MR. PURKAPLE: Okay.

8 MR. BRANECKY: Those are the

9 standards for each type of fuel; .2, .3,
10 and .7.

11 MR. PURKAPLE: Okay. Thank you.

12 MR. TERRILL: We have not decided

13 how we're going to address this -- the

14 change that we need to make to this rule.

15 It's obvious that we're not going to be

16 able to take care of the issue by making

17 changes just to the rule itself. We're

18 probably going to have to do what actually

19 the Board ask us not to do a number of

20 years ago, when we had the situation where

21 we had a new facility that wanted to

22 construct in southern Oklahoma and could

23 not meet -- they actually were putting on

24 LAER controls for NOx with being analyzed

25 under BACT, but the actual control would

1 have qualified for LAER, Lowest Achievable
2 Emission Rate, but they still couldn't meet
3 33. So we did a fix just for that
4 particular -- actually just that particular
5 company. And the Board did not like us
6 doing that and I kind of understand that.
7 But we may have to do some fixes on this
8 with -- because this rule is kind of
9 antiquated. And in the best of all worlds
10 we would probably do away with 33 and just
11 rely on the federal requirements. However
12 we do that would require a massive amount
13 of work on our part, because it is part of
14 our SIP. And to prove to EPA that this
15 wouldn't weaken the SIP would be a lot more
16 work than it would be worth at this point.

17 So EPA has recommended that rather
18 than look at this rule in totality, we look
19 at specific instances or specific problems
20 that we see that we can address on a more
21 narrow basis. That's their preference. So
22 that's probably what we're going to do.

23 We are looking at some averaging
24 times and see if that might work. But we
25 need to fix this across two or three

1 industrial sectors, not just one.

2 So we may very well come back with
3 specific industry fixes for the rule that
4 we will take to the Board and we'll brief
5 the Board as to the reason for that. I
6 think it should be fine.

7 So we are going to continue to work
8 on this and hopefully we'll have something
9 in October to bring to you to at least fix
10 parts of it, if not all of it.

11 MS. BOTCHLET-SMITH: Other
12 questions from the Council? Again on this
13 rule, I didn't have any notice of comment
14 from the public. If anyone wishes to do
15 so, if you would indicate such.

16 And seeing no hands, I believe there
17 are no comments from the public.

18 MR. BRANECKY: All right. If
19 there is no further discussion from the
20 Council, then staff has asked that we
21 continue Subchapter 33 to the October
22 meeting.

23 MS. MYERS: So moved.

24 MR. BRANECKY: I have a motion.

25 MR. PURKAPLE: I'll second.

1 DEPARTMENT OF ENVIRONMENTAL QUALITY
2 STATE OF OKLAHOMA
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8 TRANSCRIPT OF PROCEEDINGS
9 OF THE REGULARLY SCHEDULED MEETING
10 OF THE AIR QUALITY
11 ADVISORY COUNCIL
12 DIRECTOR'S REPORT
13 HELD ON July 16, 2008
14 AT 9:00 A.M.
15 IN PONCA CITY, OKLAHOMA
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21
22 MYERS REPORTING SERVICE
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SPECIALIST

1

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PROCEEDINGS

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MR. BRANECKY: Do we have the

Director's Report? And before we do the

Director's Report there was some discussion

among Council Members. Typically what we

have done is have the court reporter report

everything up to the Director's Report, but

it would be nice -- members expressed

desire to have a record of what Eddie says.

And it would be nice to be able to recall

what is in the Director's Report.

THE REPORTER: You know, I record

those anyway.

MR. BRANECKY: On tape?

THE REPORTER: At anytime, I can

go back and --

MR. BRANECKY: You've already got

them.

MS. MYERS: I think we need to

start putting them in our packet.

MR. BRANECKY: Just include them

in our packet. Okay.

MR. BRANECKY: Okay. I will see

1 -- watch what he says now.

2 MR. TERRILL: I don't have
3 anything to say now. Anybody that knows me
4 knows I've always got something to say,
5 whether it is right, wrong or indifferent.

6 For those of you that have been
7 coming to the last several meetings, this
8 is the first one we've had that we haven't
9 talked about mercury. And the reason for
10 that is is we're not quite ready to talk
11 about it because our fish flesh analysis
12 activity is not quite done yet. I got an
13 update about three weeks ago, relative to
14 where the Customer Service Division is in
15 doing this work. They've had some
16 problems. We seem to have some problems
17 with this since we started this quite a
18 while back. But they've had some boat
19 problems, and they've had some lake levels
20 being high, problems. But they've assured
21 me that they will get this done, enough so
22 that we can take at least a preliminary
23 findings report to the Council in October.
24 I'd say we're about 10 percent -- 15
25 percent through with this. But they've got

1 a plan to really work hard over the next
2 month and a half to wrap this. They've got
3 the manpower issue taken care of and I
4 think their boats have been taken care of,
5 it's back up and operating. I really want
6 to do a report in October, if we can, at
7 least to give the public and the regulated
8 community some idea of where we are,
9 relative to our fish flesh values within
10 the state.

11 Having said that there's still some
12 outstanding issues that we need to
13 determine. One of them being monitoring
14 and whether or not we're going to try to do
15 a rule or something. And we're probably
16 going to tie that somewhat to our fish
17 flesh analysis. But we're also doing some
18 evaluation with other states to determine
19 exactly what we would do with that data.
20 Originally the monitoring that was required
21 under CAMR was designed to ensure
22 compliance with a standard. And since that
23 doesn't exist anymore -- monitoring for the
24 sake of monitoring, if we're not going to
25 be able to do something with the data, it's

1 something I'm not in favor of. Both from
2 our end of having to look at it and the
3 regulated end not to have to collect
4 something that's not going to be used.

5 So if we determine that there is
6 really not a need to do that then as long
7 as we can figure out some way to give the
8 public knowledge of what is in the
9 inventory, we may fall back with that.
10 Because I've just got to believe that EPA
11 is going to have to address mercury,
12 probably in the next administration -- next
13 EPA Administrator.

14 So that's the reason why we don't
15 have mercury on the agenda this time. But
16 once our fish flesh analysis is done we'll
17 come back with a report to the Council, and
18 give some recommendations to the Council,
19 and take direction from the Council and the
20 public, as to what they would like to see
21 done relative to the mercury.

22 By the way, if anyone has any
23 questions at anytime, just feel free to
24 break in, I mean, this is real informal.

25 For those of you who have been

1 following the news lately, the CAIR rule,
2 the Clean Air Interstate Rule failed last
3 July -- the 11th last week. The District
4 Court, the District of Columbia, the DC
5 Circuit remanded it, the entire rule, back
6 to EPA -- vacated and remanded. I thought
7 they would lose part of it. I didn't think
8 they would lose the whole rule. And this
9 creates a huge problem for states who were
10 a part of CAIR and states who weren't part
11 of CAIR.

12 Obviously, if you were a CAIR state
13 you had activities going on, a trading
14 program that was dependent upon controls
15 being added by dates that are rapidly
16 approaching in the next couple years. So
17 you've got billions of dollars out there
18 that is either in the process of being
19 spent or have been spent for a trading
20 program that doesn't exist anymore.

21 So you throw this in and the fact
22 that they've lost CAMR, they've lost all
23 their MACT -- they've really lost every
24 major air rule they have proposed; it's
25 been litigated and EPA has lost.

1 So over the last couple weeks, or
2 actually over the last week, there's been
3 some renewed activity and renewed interest
4 on the Hill to take a look at the Clean Air
5 Act and see what changes need to be made.
6 And also maybe even look at a multi-
7 pollutant bill, whether or not that might
8 include carbon, I don't know. I think it's
9 going to be awful difficult for EPA to
10 re-propose a rule, I think, that includes
11 NOx, SOx, mercury, PM, without some changes
12 to the Act in order to incorporate that.

13 So if you want to take a look at the
14 -- it's a 57-page -- it's kind of
15 interesting reading. But the bottom line
16 is, if you have got facilities that are in
17 CAIR states, it throws you back to square
18 one.

19 What it does for Oklahoma is that
20 the modeling runs that were done -- the IPM
21 runs to project utility emission increases
22 and cost increases and that sort of thing,
23 the IPM runs were done, both for CAIR and
24 for the Regional Haze Rule. And so we
25 relied on the information that came out of

1 that for the modeling that we did for our
2 recommendations to go into our SIP. So
3 this really effects the non-CAIR states as
4 well, if you had Regional Haze SIPs that
5 you were working on. So the steering
6 committee for the POG -- our Policy
7 Oversight Groups, CENRAP, that's been
8 working on the technical information that
9 would go into the states' SIPs within
10 CenSARA is meeting in Oklahoma City today
11 and tomorrow, I believe. And I know that
12 on their agenda is, what are the
13 ramifications of CAIR relative to the
14 Regional Haze SIPs that are past due. And
15 so we've carved out an hour at the NAAQA
16 Board Meeting, that's the Air Directors
17 Association that we belong to. Our fall
18 Board Meeting or summer Board Meeting comes
19 up in a couple weeks and we've carved out
20 an hour. And for weekend meetings to spend
21 an hour on a topic, that's a long time. So
22 everybody believes this is a huge, huge
23 issue that we're going to be trying to
24 figure out what the ramifications are.

25 But I truly don't see anything

1 happening with this until after the
2 elections and after and a new Administrator
3 is appointed. So it will be very unlikely
4 that they address the mess that's been
5 created by this and other setbacks EPA has
6 suffered, relative to rulemaking until they
7 have a new Congress. So we'll just have to
8 see what happens relative to that.

9 I was going to talk a little bit
10 about climate change. I've gotten a -- if
11 you're a utility, you can expect to get
12 something from me and from the climate
13 registry over the next couple of weeks.
14 They're really trying to push to raise the
15 number of members that belong to the
16 climate registry.

17 I think most of you all are kind of
18 aware of what the registry does and what it
19 doesn't do. EPA, the only thing they've
20 done relative to climate change, they've
21 issued the notice of proposed advanced
22 rulemaking. And basically they are
23 declining to deal with carbon at this time.
24 They still have not come out with their
25 rule for emissions inventory, how they're

1 supposed to be calculated and what sources
2 would be covered. So there's still a lot
3 of things that can happen relative to
4 carbon and emissions inventory over the
5 next couple months.

6 I think EPA is under a deadline to
7 have that out as a proposed rule sometime
8 at the end of this month or the first part
9 of September. So you'll be getting
10 something -- like I said utilities will be
11 the first on the list. But we'll probably
12 be expanding that out to other large carbon
13 sources in the future just to give you some
14 idea of what the carbon registry does, if
15 you're not familiar with that to give you
16 some information and you can make a
17 decision whether or not you want to think
18 about joining it.

19 So hopefully all this information
20 relative to the emissions inventory, and
21 how that is going to be calculated portion
22 of (inaudible) will kind of become clear
23 sometime this fall in anticipation of
24 Congress or EPA, one, dealing with the CO2
25 and other greenhouse gas issues, sometime

1 in the next administration.

2 The only other thing I've got is
3 we're not prepared to talk about it today,
4 but Kendall and I, and the enforcement
5 managers have been taking a look at our
6 alternate enforcement policy. We've had
7 some suggestions that we think are good
8 suggestions relative to clarifying this. I
9 think this will be the third, or fourth, or
10 fifth clarification we've done on this
11 particular -- it's not a rule, but it's a
12 policy, I guess. So this is our last
13 attempt to try to clarify it for our folks
14 and for the regulated community.

15 So we should come out with something
16 on our website in the next month relative
17 to how -- we're looking at expanding the
18 time frame for response and making it clear
19 as to exactly what you can expect, if you
20 have issues with the inspection report and
21 what you cannot expect relative to our
22 interpretation of the rules.

23 So we think the comments that we
24 heard were some good ones and we are in the
25 process of incorporating that into the

1 letter you get, and also into our policy.
2 We've got some internal hoops to jump
3 through, but we should have that done here
4 in two or three weeks and have something up
5 on our website probably at the end of
6 August, I would think at the latest. So
7 you might keep an eye out and we'll try to
8 put something in the consultants newsletter
9 -- the newsletter for the consultants and
10 also our Air Quality newsletter.

11 Questions?

12 MR. BRANECKY: Where are we on
13 the audit?

14 MR. TERRILL: Oh, I'm glad you
15 asked me about that because I knew there
16 was something that I hadn't jotted down.

17 Now that the session is over with,
18 and the budgets are in, David Dyke, my
19 counterpart up in Customer Service -- they
20 are in contact with the State Auditor, to
21 try to get language from them to narrow
22 down what we are going to ask the
23 contractor for when we go out for bid on
24 this. And we are trying to structure this
25 so that we can keep the cost down but get

1 the Council and EFO what we agreed to do.
2 So I think what we are going to do is over
3 the next two or three weeks, we are going
4 to put together a request for proposal.
5 And then we'll probably take that to the
6 Finance Committee of the Council for their
7 blessing, if you will, as this is going to
8 gather the information that they are
9 interested in. And then hopefully we'll go
10 out for bids on that within the next month
11 or so.

12 We are not going to include a needs
13 or a -- the portion of it we are going to
14 look at relative to what needs we have
15 within the Agency relative to being able to
16 do our job. We think that's going to be
17 taken care of through an IPA that EPA has
18 given to CenSARA to take a look at doing an
19 analysis of small, medium, and large
20 programs with the idea that we'll have a
21 report ready to go to the new Administrator
22 of EPA next year. So we can make an effort
23 to lobby for more federal money to run
24 these programs and for reallocation of
25 resources from the headquarters area to the

1 regions to help do the analysis of permits
2 and that sort of thing.

3 And we've also been notified that
4 EPA is going to be doing a Title V audit of
5 our program sometime in the fall or maybe
6 March of next year. I don't anticipate
7 that is going to be anything of a real
8 note, we've had one done before and there
9 wasn't a whole lot to it. But they have
10 put some information together since then,
11 relative to the Arkansas program and what's
12 Title V and what's not. Then we will take
13 a look at it as part of the audit of our
14 program. And it's possible that maybe
15 there will be a little bit more substance
16 to the one they do.

17 So that's kind of a long-winded
18 answer to tell you that we are now devoting
19 our attention to that and that we hope to
20 get that done "ASAP", as soon as possible.

21 MR. PURKAPLE: Eddie, with
22 respect to the heater boiler MACT, I
23 haven't looked at the DEQ's website --
24 there is an FAQ; is there anything that has
25 changed about the state's position on that

1 particular MACT?

2 MR. TERRILL: Not yet. Dawson,
3 do you have anything to add on that? I
4 think we're going to -- we've got some
5 decisions to make on a lot of the MACTs.
6 And Dawson -- we don't. We just haven't
7 sat down yet and figured out how we're
8 going to handle a number of them. And I
9 know all of you have got concerns about who
10 you report to and how you do it and making
11 sure that you don't have an issue -- a
12 compliance issue down the road and we are
13 aware of all of that. And obviously we are
14 taking that into account, and whether or
15 not we end up putting some kind of a
16 workgroup together, I don't know. There
17 would be such a complicated issue to do it
18 that way. What we may do is put some ideas
19 together and put them up on the web and
20 send them out through EFO for comment. And
21 what we might think about doing is doing an
22 overview for the Council at either the next
23 meeting or maybe the one after that.
24 Probably, the sooner the better, to kind of
25 give you all an idea of where we think we

1 are going with this. But we do realize
2 that we've got to make some decisions on
3 how we're going to address that issue. And
4 we are not going to leave you guys hanging
5 and put you in a position where you are
6 going to have compliance issues, certainly
7 not with us, but not with EPA either. We
8 are not going to let that happen.

9 The only thing I will mention about
10 ozone, we are having just a fantastic
11 weather year. We've got a couple of sites
12 that are in violation in Oklahoma City; but
13 Tulsa so far, we still have not violated
14 the standard.

15 There's been lawsuits filed on both
16 sides of the issue. Mississippi is leading
17 the charge of states and industry groups
18 that say the standard is too tight. There
19 is a number of states that are suing EPA,
20 along with environmental groups, saying the
21 standards are too lax. So it probably
22 means they are pretty close to being right.

23 But Mississippi does have some
24 interesting -- and then there are some
25 other states that I think are going to join

1 in with that that are not necessarily
2 challenging the science of the standard but
3 want to have a seat at the table, relative
4 to implementation of the new standard. And
5 that's where -- that's the attack we're
6 taking, I don't think we will be a party to
7 the lawsuit. But we are getting our ducks
8 in a row to try to lobby through CenSARA or
9 possibly even through NAAQA with the new
10 Administrator to take a look at the Act, to
11 take a look at the way they implement the
12 ozone standard, specifically in areas that
13 have been in compliance with the eight-hour
14 standard -- the old one. We just think
15 they need to take a whole fresh look at the
16 nonattainment scheme and mechanism. They
17 are going to have to do that because they
18 lost the suit when they implemented the
19 eight-hour standard and the Subpart 1,
20 Subpart 2; that scheme got kicked back to
21 EPA, saying they weren't allowed in the Act
22 to pigeonhole the eight-hour standard into
23 the one-hour requirement. So they are
24 going to need to take a look at that
25 anyway. And we think it's time they took a

1 look at the whole process they use for
2 designations and what the states go
3 through, relative to that and then kind of
4 shift the emphasis a little bit. So we're
5 going to follow the lawsuits closely. I
6 still anticipate a stay of that. But as it
7 stands right now, we have to make a
8 recommendation to the Governor so that he
9 can make a recommendation to EPA, by March
10 of next year.

11 So what we are anticipating doing is
12 having some waiting into the ozone season,
13 and seeing what areas of the state have
14 monitors to violate the standard. And if
15 there has not been a stay of the rule that
16 puts off the time when the Governor has to
17 make his recommendation, we'll probably
18 hold some public hearings in those areas
19 that have monitors that are showing
20 violations so that we can have some
21 discussions with the public and obviously
22 the Council, as well, about boundary
23 recommendations. Right now if we were to
24 hold them today, it would be in the
25 Oklahoma City area and possibly the Red

1 River area. Even though we don't really
2 have monitors -- we are moving our monitors
3 down in that area often enough so we don't
4 have an attainment issue. We will probably
5 hold something down there just if anybody
6 has an interest in what the values mean and
7 what it really means to them, relative to
8 the advisory that we do and sort of thing,
9 since we do have high ozones down in that
10 part of the state, to give them an
11 opportunity that we would answer questions,
12 not that there would be any chance of -- at
13 this point, that that would be an area of
14 nonattainment. But the Oklahoma City area
15 would be the area that we would be talking
16 to them about boundary issues.

17 But we do have at least -- I think
18 we have got two monitors now that show a
19 violation standard in Oklahoma City. So
20 we'll probably do that in October, maybe
21 November.

22 MR. BRANECKY: Okay.

23

24 (Director's Report Concluded)

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2 STATE OF OKLAHOMA
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8 TRANSCRIPT OF PROCEEDINGS
9 OF THE REGULARLY SCHEDULED MEETING
10 OF THE AIR QUALITY
11 ADVISORY COUNCIL
12 NEW BUSINESS
13 HELD ON JULY 16, 2008
14 AT 9:00 A. M.
15 IN PONCA CITY, OKLAHOMA

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JERRY PURKAPLE, MEMBER

LAURA LODES, MEMBER

MONTELLE CLARK, MEMBER

DEQ STAFF

EDDIE TERRILL - DIRECTOR

BEVERLY BOTCHLET-SMITH - ASSISTANT DIRECTOR

MYRNA BRUCE - SECRETARY

CHERYL BRADLEY - ENVIRONMENTAL PROGRAMS

MANAGER

DR. JOYCE SHEEDY - ENGINEER

MAX PRICE - ENVIRONMENTAL PROGRAM

SPECIALIST

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PROCEEDINGS

MR. BRANECKY: I have a couple of issues I would like to discuss under "New Business" before we adjourn.

Our next meeting in October was scheduled in Broken Bow. There has been some discussion as to whether we would maybe like to move that back to Oklahoma City for not only saving money on gas, but to make it more accessible to the public, because we plan on passing Subchapter 9 in October; is that the plan?

MR. TERRILL: We hope to do that. I'd like to get 9 out of the way and we would also -- if we're ready to move on at least parts of 33, if not all, then I would like to do 33, as well in October. Also, we are going to be doing the fish flesh study report in October. I don't think that I will ask the Council for any -- it's possible we could ask the Council for some directions based on that as well. So, October is going to be a fairly action-packed agenda.

1 MR. BRANECKY: So it's up to the
2 wishes of the Council; what would you guys
3 like to do?

4 MR. CLARK: Question? Why was
5 Broken Bow -- what was that historical
6 reason for meeting in Broken Bow; was it to
7 access the southeast part of the state and
8 an option to go down there and participate?

9 MR. BRANECKY: Yeah, and we've
10 had it in Tulsa, Oklahoma City, Ponca City
11 and just kind of moved it around. There is
12 no historical reason.

13 MR. CLARK: Does it matter at al;
14 -- is there a permit being considered for
15 any plant down in that area? Do folks down
16 there seem to be very interested in that?

17 MR. TERRILL: We wouldn't discuss
18 permits anyway. That's one thing that we
19 don't do at any of these Council meetings
20 is discuss any individual permits. So if
21 we were to have a meeting down there and
22 they wanted to discuss that, I guess it
23 would be up to Council as to what comments
24 they took. But as a staff and as an Agency
25 and Division, we will not comment on

1 anybody's permit, whether it be a new
2 permit, an old permit, a construction
3 permit, a modification or whatever, that is
4 just not the purpose of the Council to
5 debate permit issues.

6 So obviously as part of our meeting,
7 if someone wanted to talk or raise an
8 issue, the Council could take that, but it
9 wouldn't be on the record as part of our
10 rulemaking or that sort of thing.

11 MR. CLARK: Suppose that was
12 referring to any rules that might effect
13 that permit. Any rules that might be
14 discussed that would affect that permit?

15 MR. TERRILL: Obviously, yes, we
16 can discuss any rules that the Council
17 would take up but just not a permit that is
18 pending with us. That is just not part of
19 the purview of the Council.

20 MR. BRANECKY: We can leave it at
21 Broken Bow unless -- speak up. Now is your
22 chance.

23 MR. PURKAPLE: I enjoy going to
24 Broken Bow, but I think maybe given the
25 content of what we are going to talk about

1 and in order to enhance the public
2 participation, I would defer to DEQ to
3 decide where the best location might be.
4 And look for an opportunity to be in Broken
5 Bow for the 2009 meeting.

6 MR. BRANECKY: Do we have to take
7 a vote; is this something we officially
8 have to vote on to make this change?

9 MR. TERRILL: I don't think so, I
10 think you just give us direction because we
11 need to know today because we need to make
12 sure we've got a room and all that in
13 Broken Bow. Obviously for us it's easier
14 for us to do it in Oklahoma City. We don't
15 have to take staff on the road. If it
16 weren't for the fact that we really do want
17 to try to pass these rules, and we will be
18 bringing this mercury issue up again, I
19 don't know that it would make any
20 difference -- but we will have to take a
21 lot of staff down there, if we're going to
22 go to Broken Bow. It will be a fairly
23 expensive proposition. It's all coming out
24 of Title V for the most part, so it's up to
25 you all.

1 DR. LYNCH: I think that the
2 mercury issue, some of the last meetings,
3 and the one that was here last year, that
4 is a big deal and I think we ought to try -
5 - any information we have on that ought to
6 be put forward to the place where it is the
7 easiest for people to get to; whether
8 that's Tulsa or Oklahoma City. Broken Bow
9 is a long way off and that is a high-
10 interest topic.

11 MR. BRANECKY: Since we voted
12 initially on meeting locations; do we not
13 have to vote to change it?

14 MS. BOTCHLET-SMITH: I think you
15 would have to vote, but they are having
16 trouble hearing you, Bob.

17 DR. LYNCH: My comment was that
18 the mercury issues raised a lot of
19 interest. We're going to talk about data
20 that is going to drive that issue, which I
21 think it will, one way or another, that
22 ought to be delivered at a place where it's
23 easiest for people to get to.

24 MR. BRANECKY: Okay. So I think
25 we need to take a vote so I would suggest a

1 motion and a second, and then we'll vote.

2 Since we voted initially on meeting

3 locations, I think we need to vote to

4 change it.

5 DR. LYNCH: I move that we change

6 the location of the October '08 meeting to

7 Oklahoma City.

8 MR. BRANECKY: I have a motion to

9 move it to Oklahoma City.

10 MR. HAUGHT: I'll second it.

11 MR. BRANECKY: All right. Myrna.

12 MS. BRUCE: Jerry Purkaple.

13 MR. PURKAPLE: Yes.

14 MS. BRUCE: Laura Lodes.

15 MS. LODES: Yes.

16 MS. BRUCE: Sharon Myers.

17 MS. MYERS: No.

18 MS. BRUCE: Rick Treeman.

19 MR. TREEMAN: I'm going to

20 abstain.

21 MS. BRUCE: Jim Haught.

22 MR. HAUGHT: Yes.

23 MS. BRUCE: Bob Lynch.

24 DR. LYNCH: Yes.

25 MS. BRUCE: Montelle Clark

1 MR. CLARK: No.

2 MS. BRUCE: David Branecky.

3 MR. BRANECKY: Yes.

4 MS. BRUCE: Motion did pass.

5 MR. BRANECKY: All right. It

6 will be in Oklahoma City in October.

7 The other item I would like to
8 discuss is Rick Treeman, this is his last
9 meeting. He is Vice-Chair, and I think we
10 would need to elect another Vice-Chair for
11 October, for the next meeting. So that is
12 what I would like to do at this point.

13 MS. MYERS: I would like to
14 propose Laura Lodes as Vice-Chair to serve
15 out the rest of the year.

16 MR. PURKAPLE: I'll second that.

17 MR. BRANECKY: Any discussion?

18 It's a done deal. We'll take a vote.

19 MS. BRUCE: Jerry Purkaple.

20 MR. PURKAPLE: Yes.

21 MS. BRUCE: Laura Lodes.

22 MS. LODES: Yes.

23 MS. BRUCE: Sharon Myers.

24 MS. MYERS: Yes.

25 MS. BRUCE: Rick Treeman.

1 MR. TREEMAN: Yes.

2 MS. BRUCE: Jim Haught.

3 MR. HAUGHT: Yes.

4 MS. BRUCE: Bob Lynch.

5 DR. LYNCH: Yes.

6 MS. BRUCE: Montelle Clark

7 MR. CLARK: Yes.

8 MS. BRUCE: David Branecky.

9 MR. BRANECKY: Yes.

10 MS. BOTCHLET-SMITH:

11 Congratulations Laura.

12 MR. TERRILL: I thank everybody

13 for coming. And thanks to Conoco and the

14 city of Ponca City for very good

15 accommodations last night and today; we

16 really appreciate it.

17 MR. BRANECKY: We are done.

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19 (New Business Concluded)

20 (Meeting Concluded)

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STATE OF OKLAHOMA)

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COUNTY OF OKLAHOMA)

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I, CHRISTY A. MYERS, Certified

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Shorthand Reporter in and for the State of

8

Oklahoma, do hereby certify that the above

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proceedings is the truth, the whole truth,

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and nothing but the truth; that the

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foregoing proceedings were taken by me in

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shorthand and thereafter transcribed under

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my direction; that said proceedings were

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taken on the 16th day of July, 2008, at

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Ponca City, Oklahoma; and that I am neither

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attorney for nor relative of any of said

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parties, nor otherwise interested in said

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action.

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IN WITNESS WHEREOF, I have hereunto

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set my hand and official seal on this, the

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18th day of July, 2008.

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MYERS, C.S.R.

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Certificate No. 00310

