

**MINUTES**  
**AIR QUALITY COUNCIL**  
**Department of Environmental Quality**  
**Multipurpose Room**  
**707 North Robinson, Oklahoma City, Oklahoma**

Draft for February 24, 2012 EQB  
Official after AQC Approval  
July 18, 2012

**Notice of Public Meeting** The Air Quality Council convened for its regular meeting at 9:00 a.m. on January 18, 2012 at the DEQ Multipurpose Room, 707 North Robinson, Oklahoma City, Oklahoma. Notice of the meeting was forwarded to the Office of the Secretary of State giving the date, time, and place of the meeting on November 23, 2011. Agendas were posted at the meeting facility and at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division, convened the hearings by the Air Quality Advisory Council in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51, and Title 27A, Oklahoma Statutes, Sections 2-5-201 and 2-5-101-2-5-118. She entered the Agenda and the Oklahoma Register Notice into the record and announced that forms were available at the sign-in table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Chair, called the meeting to order. Ms. Bruce called roll and a confirmed that a quorum was present.

**MEMBERS PRESENT**

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

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Rob Singletary  
Laura Finley  
Madison Miller

**DEQ STAFF PRESENT**

Scott Thomas  
Brooks Kirlin  
Joyce Sheedy  
Dawson Lasseter

**MEMBERS ABSENT**

Pete White

**OTHERS PRESENT**

Christy Myers, Court Reporter

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

**Approval of Minutes – October 5, 2011 Regular Meeting** Ms. Lodes called for a motion for approval. Ms. Myers moved to approve and Mr. Haught made the second.

*See Transcript pages 4 - 5*

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

**Election of Officers Calendar Year 2012** Mr. Branecky made motion to retain the current officers, Laura Lodes for Chair and Jim Haught for Vice-Chair. Ms. Myers made the second.

*See Transcript pages 5 - 6*

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

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

**OAC 252:100-7 Permits for Minor Sources**

Ms. Madison Miller, staff attorney, stated that the proposal would modify Subchapter 1 to complete the incorporation of EPA's recent changes to the Prevention of Significant Deterioration and Part 70 permitting programs exempting certain biogenic carbon dioxide emissions; modify Subchapters 1 and 7 to resolve issues surrounding when an application for an air quality operating permit is to be submitted to the Department; and modify Subchapter 7 to make the requirement for obtaining a construction permit for existing minor facilities more consistent with that for new minor facilities. Ms. Miller pointed out the proposed amendments being proposed relating that staff recommendation is for Council approval and forwarded to the Environmental Quality Board for permanent adoption.

Following discussion by Council and the public, Mr. Branecky made motion to approve the revisions as presented with the amendment. Mr. Collins made the second.

*See Transcript pages 7 - 51*

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

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

Mr. Brooks Kirlin, engineer with the Rules and Planning Section, stated that the proposal would clarify existing language and to bring the allowable sulfur dioxide (SO2) ambient air limits in OAC 252:100-31-7(a) into line with the requirements of the recently-enacted change to the SO2 National Ambient Air Quality Standards. In response to comments received, the Department is proposing additional changes to several longstanding control, monitoring and emission requirements in the Subchapter. In addition, the Department is proposing to add requirements for fuel-burning equipment that uses an alternative fuel. The Department is also proposing to add a new section 252:100-31-4, which aligns Subchapter 31 excess emission reporting requirements with those of 252:100-9. Mr. Kirlin pointed out the changes being recommended. Following lengthy discussion by Council and input from the public, Mr. Branecky made motion to approve with the amendments as discussed and forwarded the Environmental Quality Board. Those were read into the record. Mr. Gamble made the second.

*See Transcript pages 51 - 131*

David Gamble	Yes	Jim Haught	Yes
Gary Collins	Yes	Sharon Myers	No
Montelle Clark	Yes	Robert Lynch	Yes
David Branecky	Yes	Laura Lodes	Yes

**Division Director's Report** - Mr. Eddie Terrill, Air Quality Division Director, and Ms. Beverly Botchlet-Smith, Assistant Director, Air Quality Division Assistant Director, provided an update on the tire fee; ozone season; large SO<sub>2</sub> sources modeling analysis; and the CSAPR rule.

**New Business** – None

**Adjournment** – Ms. Lodes adjourned the meeting adjourned at 11:45 a.m.

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

# Myers Reporting

Sheet 1 Page 1

1 \* \* \* \* \*

2 TRANSCRIPT OF PROCEEDINGS

3 OF THE AIR QUALITY COUNCIL MEETING

4 ON JANUARY 18, 2012, AT 9:00 A.M.

5 HELD IN OKLAHOMA CITY, OKLAHOMA

6 \* \* \* \* \*

7 MYERS REPORTING SERVICE

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10 Oklahoma City, Oklahoma 73172-1532

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1 MEMBERS OF THE COUNCIL

2 DAVID BRANECKY, MEMBER

3 LAURA LODES, CHAIR

4 JIM HAUGHT, VICE-CHAIR

5 PETE WHITE, MEMBER

6 SHARON MYERS, MEMBER

7 MONTELLE CLARK, MEMBER

8 GARY COLLINS, MEMBER

9 ROBERT LYNCH, MEMBER

10 DAVID GAMBLE, MEMBER

11 DEQ STAFF

12 MYRNA BRUCE

13 BEVERLY BOTCHLET-SMITH

14 EDDIE TERRILL

15 CHERYL BRADLEY

16 NANCY MARSHMENT

17 DIANA HINSON

18 ROBERT SINGLETARY

19 MADISON MILLER

20 BROOKS KIRLIN

21 LAURA FINLEY

22 DR. JOYCE SHEEDY

23 PROCEEDINGS

24 MS. LODES: We'll go ahead

25 and call this meeting to order.

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1 We'll go ahead and call the Air

2 Quality Council meeting for January

3 18, 2012 to order. We've got

4 today's Agenda.

5 First item would be, Myrna,

6 would you please call roll.

7 MS. BRUCE: Good morning.

8 David Gamble.

9 MR. GAMBLE: Here.

10 MS. BRUCE: Gary Collins.

11 MR. COLLINS: Here.

12 MS. BRUCE: Montelle Clark.

13 MR. CLARK: Here.

14 MS. BRUCE: David Branecky.

15 MR. BRANECKY: Here.

16 MS. BRUCE: Jim Haught.

17 MR. HAUGHT: Here.

18 MS. BRUCE: Sharon Myers.

19 MS. MYERS: Here.

20 MS. BRUCE: Bob Lynch.

21 DR. LYNCH: Here.

22 MS. BRUCE: Laura Lodes.

23 MS. LODES: Here.

24 MS. BRUCE: And Pete White

25 is absent; we do have a quorum.

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1 MS. LODES: Thank you. The

2 next item on today's Agenda is

3 Approval of the Minutes from the

4 October 5th, 2011 Regular Meeting.

5 Do we have any comments or questions

6 regarding the minutes from the last

7 prior meeting? I see no comments

8 from the Council.

9 Do we have a motion to approve

10 said minutes?

11 MS. MYERS: I make a motion

12 to approve the minutes.

13 MR. HAUGHT: I'll second it.

14 MS. LODES: I have a motion

15 and a second. Myrna, will you

16 please call roll.

17 MS. BRUCE: David Gamble.

18 MR. GAMBLE: Yes.

19 MS. BRUCE: Gary Collins.

20 MR. COLLINS: Yes.

21 MS. BRUCE: Montelle Clark.

22 MR. CLARK: Yes.

23 MS. BRUCE: David Branecky.

24 MR. BRANECKY: Yes.

25 MS. BRUCE: Jim Haught.

# Myers Reporting

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<p>1 MR. HAUGHT: Yes. 2 MS. BRUCE: Sharon Myers. 3 MS. MYERS: Yes. 4 MS. BRUCE: Bob Lynch. 5 DR. LYNCH: Yes. 6 MS. BRUCE: Laura Lodes. 7 MS. LODES: Yes. 8 MS. BRUCE: Motion passed. 9 MS. LODES: The next item 10 on today's Agenda is election of 11 officers for 2012. And this is now 12 to the Council as to who you all 13 would like to elect to be Chair and 14 Vice-Chair for next year. 15 MR. BRANECKY: I will go 16 ahead and make a motion. Since 17 Laura and Jim have done such a good 18 job I make a motion that they 19 continue in their respective 20 positions for another year. 21 MS. MYERS: I will second 22 that. 23 (Comments) 24 MS. LODES: There is 25 apparently no discussion on this</p>	<p>1 MS. BOTCHLET-SMITH: Good 2 morning. I'm Beverly Botchlet-Smith. 3 I'm the Assistant Director of the Air 4 Quality Division and as such I will 5 serve as the Protocol Officer for 6 today's hearings. 7 The hearings will be convened 8 by the Air Quality Council in 9 compliance with the Oklahoma 10 Administrative Procedures Act and 11 Title 40 of the Code of Federal 12 Regulations, Part 51, as well as the 13 authority of Title 27A of the 14 Oklahoma Statutes, Section 2-2-201, 15 Sections 2-5-101 through 2-5-118. 16 Notice of the January 18, 2012 17 hearings were advertised in the 18 Oklahoma Register for the purpose of 19 receiving comments pertaining to the 20 proposed OAC Title 252, Chapter 100 21 rules as listed on the Agenda and 22 will be entered into each record 23 along with the Oklahoma Register 24 filing. Notice of the Meeting was 25 filed with the Secretary of State on</p>
Page 6	Page 8
<p>1 matter. We have a motion and a 2 second. Myrna, will you please call 3 roll. 4 MS. BRUCE: David Gamble. 5 MR. GAMBLE: Yes. 6 MS. BRUCE: Gary Collins. 7 MR. COLLINS: Yes. 8 MS. BRUCE: Montelle Clark. 9 MR. CLARK: Yes. 10 MS. BRUCE: David Branecky. 11 MR. BRANECKY: Yes. 12 MS. BRUCE: Jim Haught. 13 MR. HAUGHT: Yes. 14 MS. BRUCE: Sharon Myers. 15 MS. MYERS: Yes. 16 MS. BRUCE: Bob Lynch. 17 DR. LYNCH: Yes. 18 MS. BRUCE: Laura Lodes. 19 MS. LODES: Yes. 20 MS. BRUCE: Motion passed. 21 MS. LODES: Thank you. 22 MS. MYERS: Congratulations. 23 MS. LODES: Thanks. And 24 we're now to the public hearing 25 portion of this meeting.</p>	<p>1 November 23, 2011. The Agenda was 2 duly posted 24 hours prior to the 3 meeting here at the facility here at 4 the DEQ. 5 If you wish to make a 6 statement, it is very important for 7 you to complete one of these forms 8 that can be found at the front desk 9 at the registration table, and then 10 we will call upon you at the 11 appropriate time. And audience 12 members please remember to come to 13 the podium when you make your 14 statement and be sure and state your 15 name. 16 At this time we will proceed 17 with what is marked as Agenda Item 18 Number 5A on the Hearing Agenda. 19 This is OAC 252:100-1 General 20 Provisions, and OAC 252:100-7 Permits 21 for Minor Sources. The presentation 22 for these rules will be made by 23 Madison Miller, one of our staff 24 attorneys. 25 MS. MILLER: Good morning.</p>

# Myers Reporting

Sheet 3 Page 9

1 Madam Chair, Members of the Council,  
2 ladies and gentlemen, I am Madison  
3 Miller. I am an environmental  
4 attorney here at DEQ with the Air  
5 Quality Division.

6 DEQ proposes to amend  
7 Subchapter 1, General Provisions, and  
8 Subchapter 7, Permits for Minor  
9 Sources of the Oklahoma  
10 Administrative Code, in Title 252 of  
11 Chapter 100. I will discuss the  
12 amendments to these Subchapters.

13 To begin, DEQ proposes to add  
14 and modify definitions in Subchapter  
15 1, General Provisions, of Chapter  
16 100. The Environmental Protection  
17 Agency or EPA has deferred for a  
18 period of three years the application  
19 of the prevention of significant  
20 deterioration or PSD and Part 70  
21 permitting requirements to biogenic  
22 carbon dioxide emissions from  
23 bioenergy and other biogenic  
24 stationary sources. To accomplish  
25 this deferral, DEQ proposes to modify

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1 the definition of "carbon dioxide  
2 equivalent emissions" or CO<sub>2</sub>e, in OAC  
3 252:100-1-3.

4 Additionally, due to an error  
5 in the Oklahoma Register at 28 OK  
6 Reg 1079, published on June 15, 2011,  
7 DEQ proposes to correct the  
8 definition of CO<sub>2</sub>e by replacing a  
9 dash that was erroneously converted  
10 to the letter capital "B". DEQ  
11 proposes to define "fossil fuel" in  
12 OAC 252:100-1-3 for further clarity  
13 in the CO<sub>2</sub>e deferral.

14 The proposed definition is  
15 based on federal definitions provided  
16 in 40 CFR Part 60, Subparts (D) and  
17 (D)(a). Additionally, defining this  
18 term would complete the incorporation  
19 of EPA's aforementioned recent  
20 changes to the PSD and Part 70  
21 permitting programs. The term fossil  
22 fuel is not currently defined in  
23 Chapter 100, and if defined in  
24 Subchapter 1, the definition will be  
25 applicable throughout Chapter 100 in

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1 all Subchapters where that term is  
2 not defined. This is a substantive  
3 change.

4 Next, the DEQ proposes to  
5 define "commencement of operation" or  
6 "commencing operation" in OAC  
7 252:100-1-3. The term commencement  
8 of operation is not currently defined  
9 in Chapter 100, yet the term is used  
10 in Subchapter 8 to describe the  
11 pivotal point at which a stationary  
12 source must submit an application for  
13 an operating permit to DEQ. If this  
14 term is defined in Subchapter 1, the  
15 definition will be applicable  
16 throughout Chapter 100 in all  
17 Subchapters where that term is not  
18 defined. This addition is a  
19 substantive change.

20 During the last Air Quality  
21 Advisory Council meeting held on  
22 October 5, 2011, a definition of  
23 "commencement of operation" or  
24 "commencing operation" was suggested  
25 as follows:

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1 "The owner or operator has  
2 begun, or caused to begin, any  
3 activity which has the potential to  
4 emit any regulated air pollutant."

5 Members of the Council  
6 expressed concern and some  
7 dissatisfaction with the definition  
8 as proposed in October. In  
9 particular, Members of the Council  
10 stated this definition is problematic  
11 because, one, the definition is  
12 potentially too broad and could have  
13 unanticipated consequences by  
14 implicating activities and/or  
15 emissions which were not intended to  
16 fall under the definition.

17 Two, sources with construction  
18 permits are given operating authority  
19 under their construction permit.

20 And three, the definition as  
21 proposed, creates the possibility  
22 that a greater volume of  
23 modifications to operating permit  
24 applications would be submitted to  
25 DEQ while construction is completed.

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1 DEQ invited all members of the  
2 public to submit written comments at  
3 any time regarding the definition of  
4 commencement of operation. We all  
5 agree that it is necessary to define  
6 this term in Chapter 100. It  
7 behooves DEQ, regulated entities, and  
8 the public to implement a concrete  
9 definition that clarifies the  
10 activity which commences operations  
11 and triggers the requirement to  
12 submit an operating permit. It is  
13 the intent of DEQ to clarify the  
14 operating permit requirements, making  
15 them more streamlined and  
16 predictable, in order to promote ease  
17 of compliance and certainty in the  
18 permit application process.

19 Furthermore, DEQ has been  
20 informed by regulated entities that a  
21 definition of this term is desirable  
22 for the foregoing reasons. Thus, the  
23 adoption of this definition will  
24 result in a better outcome for all  
25 parties in interpreting and complying

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1 with Subchapters 7 and 8.  
2 Additionally, the State of  
3 Oklahoma administers its air quality  
4 program through a dual permitting  
5 system, the purpose of which is to  
6 adjust permit conditions from the  
7 original construction plan to what  
8 actually resulted in the operating  
9 permit. DEQ must be apprised of  
10 this discrepancy between planned and  
11 actual emissions to account  
12 accurately for ambient air  
13 concentrations of air pollutants in  
14 the State.

15 Timely notification of  
16 commencement of operation enables DEQ  
17 to more efficiently plan Oklahoma's  
18 compliance with the National Ambient  
19 Air Quality Standards and related EPA  
20 requirements.

21 The question, then, is what  
22 must be the definition of  
23 "commencement of operation"? It must  
24 be a definition everyone can live  
25 with; those who issue permits and

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1 those who apply for permits. It  
2 must reflect the longstanding  
3 interpretation by DEQ of Chapter 100,  
4 lest it be inconsistent with prior  
5 agency action on the matter.

6 Bearing in mind the  
7 aforementioned concerns of the  
8 Council, DEQ now proposes the  
9 definition of commencement of  
10 operation as follows.

11 "The owner or operator of the  
12 stationary source has begun, or  
13 caused to begin, any activity for  
14 which the stationary source is  
15 designed and/or permitted and which  
16 has begun emitting any regulated air  
17 pollutant."

18 With this definition,  
19 determining whether operations have  
20 commenced is a two-step process.  
21 Step 1 is to ask whether the  
22 activity that has begun is something  
23 which the source was designed and/or  
24 permitted to do.

25 Step 2 is to ask whether

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1 emissions are resulting directly from  
2 that activity. The answer to both  
3 of these questions must be yes to  
4 indicate operations have commenced.  
5 If either answer is no, the activity  
6 has not caused operations to  
7 commence.

8 This two-step process  
9 eliminates the foreseeable instances  
10 when an activity unintended to  
11 trigger operating permit requirements  
12 satisfies the definition. The  
13 definition as proposed today  
14 addresses the aforementioned concerns  
15 of the Council by virtually  
16 eliminating unforeseeable and  
17 foreseeable circumstances when a  
18 source would prematurely meet the  
19 definition of "commencement of  
20 operations".

21 The definition as proposed  
22 today reflects the longstanding  
23 interpretation by DEQ of the rules  
24 implementing our State's dual  
25 permitting system, as well as the

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1 historic practice of DEQ and  
2 regulated entities. Adding this  
3 definition will not change the  
4 application process as it exists  
5 today, or as it has existed in the  
6 past.

7 At the October Council meeting  
8 regulated entities expressed the sole  
9 concern that under the definition of  
10 commencement of operation as proposed  
11 in October, minor sources, oil and  
12 gas wells in particular, would not be  
13 able to submit an operating permit  
14 application within the 60-day time  
15 limit prescribed by Subchapter 7. In  
16 response to this concern, DEQ  
17 proposes to modify Subchapter 7,  
18 Permits for Minor Sources.

19 Specifically, DEQ proposes to  
20 insert the term "commencement of  
21 operation" or "commencing operation",  
22 pursuant to the definition proposed  
23 today, in OAC 252:100-17,  
24 100-7-18(a)(1) and (2).  
25 Additionally, in that section, DEQ

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1 proposes to increase from 60 days to  
2 180 days the time allowed for the  
3 submission of a minor source air  
4 quality operating permit application  
5 following the commencement of  
6 operation. This increase will allow  
7 additional time for owners and  
8 operators of minor sources to prepare  
9 their operating permit applications.  
10 Furthermore, this will create  
11 consistency between Subchapter 7 and  
12 Subchapter 8 through the use of the  
13 same terminology and the same time  
14 period for submission of applications  
15 for air quality operating permits.  
16 This is a substantive change.

17 DEQ proposes to revise OAC  
18 252:100-7-15(a)(2)(B)(1) to narrow  
19 the requirement for an existing minor  
20 facility to obtain an individual air  
21 quality construction permit. The  
22 proposed revision would require an  
23 existing minor facility to obtain a  
24 construction permit to add a piece of  
25 equipment or a process that is

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1 subject to an emission standard,  
2 equipment standard, or work practice  
3 standard in an NSPS or a NESHAP. A  
4 construction permit would not be  
5 required to add a process or  
6 equipment that is subject only to  
7 reporting and/or recordkeeping  
8 requirements in an applicable NSPS or  
9 applicable NESHAP.

10 Notice of the proposed  
11 permanent rule changes was published  
12 in the Oklahoma Register on December  
13 1, 2011. DEQ published the proposed  
14 rules on the Air Quality Division's  
15 Council webpage on December 15, 2011.  
16 The notice requested written comments  
17 from the public and other interested  
18 parties. No written comments were  
19 received in time for DEQ to prepare  
20 written responses. On Tuesday,  
21 January 17, 2012, Ms. Angie  
22 Burckhalter, VP of Regulatory Affairs  
23 at the Oklahoma Independent Petroleum  
24 Association, submitted a written  
25 comment via email. She stated

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1 satisfaction with the deletion of  
2 "potential to emit" from the  
3 definition of "commencement of  
4 operation" or "commencing operation".  
5 Additionally, she proposed the  
6 following definition in the place of  
7 the currently proposed definition.

8 "Commencement of operation" or  
9 "commencing operation" means the  
10 owner or operator of the stationary  
11 source has begun, or caused to begin,  
12 emitting a regulated air pollutant  
13 from any activity for which the  
14 stationary source is designed and  
15 permitted."

16 If the Council adopts this  
17 proposed version of the definition,  
18 DEQ requests that the language be  
19 modified to state "the stationary  
20 source is designed and/or permitted".  
21 A significant loophole exists in the  
22 definition if the activity is limited  
23 to one for which the source is  
24 designed and permitted. Sources that  
25 did not obtain a construction permit

# Myers Reporting

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1 will be able to evade operating  
2 requirements because they were not  
3 designed and permitted. The loophole  
4 will be ameliorated by stating  
5 "designed and/or permitted".

6 Staff requests that the  
7 proposed amendments to Subchapters 1  
8 and 7 be adopted by the Council and  
9 forwarded to the Environmental  
10 Quality Board in February, with the  
11 recommendation that they be adopted  
12 as permanent rule changes. With  
13 respect to the definition of  
14 commencement of operation, DEQ  
15 requests the Council either adopt the  
16 DEQ's proposed definition, or adopt  
17 Ms. Burckhalter's proposed definition  
18 as amended by DEQ. The modifications  
19 to Subchapter 8, which were passed in  
20 October 2011, will become effective  
21 at the same time as the revisions to  
22 Subchapters 1 and 7.

23 Thank you.

24 MS. LODES: Thank you. I  
25 guess my first one would be I kind

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1 writing the word construction.

2 MS. LODES: It just flows  
3 better.

4 MR. BRANECKY: DEQ is okay  
5 with that?

6 MS. MADISON: Yes. DEQ  
7 agrees with your comments.

8 MS. LODES: Now, I don't  
9 have one overall concern with the  
10 changing, the definition, and  
11 everything else, which is something  
12 I've asked.

13 How does this affect the  
14 definition of when things like KKK  
15 notifications and some of those are  
16 impacted since that -- those are  
17 triggered by commencing operation of,  
18 say, a facility under NSPS KKK?

19 MS. MADISON: Well --

20 MS. LODES: This makes it a  
21 more stringent definition than the  
22 federal definition which would  
23 typically trump a federal definition  
24 and I don't want to cause a problem  
25 there.

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1 of like Angie's definition with the  
2 -- and I can understand your reason  
3 for the change, the and/or permitted.  
4 Does anybody else on the Council have  
5 any thoughts on that? To me it does  
6 read a little more streamlined than  
7 the one that we were coming up with  
8 the other day -- when we were  
9 discussing it.

10 Is there anybody else? Yes.  
11 Yes. As amended by the DEQ Board it  
12 says and/or permitted.

13 MS. MADISON: Okay.

14 MS. LODES: To me I do like  
15 how that flows.

16 MR. BRANECKY: I mean that's  
17 saying the same thing, right?

18 MS. MADISON: Yeah.

19 MS. LODES: They say the  
20 same thing, I just -- the way hers  
21 is I think it is a more streamlined  
22 version.

23 MR. CLARK: We're not -- I  
24 don't see any substantive differences  
25 between them, just the wording,

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1 MR. SINGLETARY: Well, just  
2 as a -- if we had a Subchapter that  
3 also defined commence operation, the  
4 specific definition in that  
5 subchapter would trump the Chapter  
6 100 definition. Any specific  
7 definition in a federal requirement  
8 would trump this general definition  
9 and Chapter 100 is the same way.

10 MS. LODES: Even though this  
11 one would be considered more  
12 conservative? Because this triggers  
13 it -- I mean you can start up a  
14 natural gas processing plant or part  
15 of it which would trigger  
16 commencement of operation here, but  
17 you may not have started up all  
18 parts of the operation that are  
19 actually subject to NSPS KKK.

20 MR. SINGLETARY: Yeah. I  
21 mean if there was a more specific  
22 definition in a federal requirement  
23 this general definition will be  
24 replaced by that definition.

25 MS. LODES: Okay.

# Myers Reporting

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1 Okay. I just wanted to make sure  
2 that was clear and that is on the  
3 record so we've got it if we get  
4 questions in a year or two by an  
5 inspector that I've got some -- I've  
6 got something to go back to.

7 Okay. Any other questions or  
8 comments from the Council on this  
9 step -- on this part?

10 Okay. On Subchapter 7 -- I  
11 do, by the way, have another set of  
12 questions here. Where you have  
13 modification of an existing facility,  
14 I know we've worded in what has  
15 always been accepted by the DEQ. It  
16 says an emission standard, equipment  
17 standard, or work practice standard.  
18 There is not a definition of what a  
19 work practice standard is anywhere.  
20 What about -- is there a way to  
21 exclude maintenance standards only?  
22 Because there is some of these new  
23 area source NESHAPs that would only  
24 require things like you've got to  
25 follow a certain maintenance for

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1 there's things like that and there's  
2 several other areas in NESHAP that  
3 are really just a maintenance  
4 standard that's out there. And I  
5 don't think our intent is truly to  
6 pull those into permitting.

7 (Inaudible Comments)

8 MR. SINGLETARY: So your  
9 question was if it's -- it is  
10 subject to the NESHAP or to the NSPS  
11 but it's just for maintenance  
12 purposes?

13 MS. LODES: Correct.

14 DR. SHEEDY: So a standard  
15 or a --

16 MS. LODES: The only  
17 standard would be the maintenance on  
18 it. And that's similar to like  
19 right now you might have a tank  
20 that's subject to NSPS (k) (b) but  
21 it's only required to maintain the  
22 size of the tank. Well that's never  
23 triggered permitting. And that would  
24 still be excluded here --

25 DR. SHEEDY: Uh-huh.

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1 routine oil changes or things like  
2 that. And I don't know that the  
3 intent is really to trigger requiring  
4 you to obtain a permit for an  
5 existing engine. And I'll pick on a  
6 NESHAP ZZZZ here, that the only  
7 requirement is that you've got to  
8 change your oil in a certain  
9 frequency. I mean do we really  
10 intend to trigger a permit for an  
11 engine because of that?

12 DR. SHEEDY: Isn't that what  
13 work practice means?

14 MS. LODES: That would be  
15 -- and that's kind of -- but there's  
16 some ambiguity there because that's  
17 considered a maintenance standard in  
18 a lot of federal rules.

19 (Pause)

20 MS. LODES: I know everybody  
21 is thinking. This was the other  
22 little zinger I had (inaudible). But  
23 when I got to really looking at it  
24 -- I mean ZZZZ is up in the air  
25 right now with some changes and

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1 MS. LODES: -- and NESHAP  
2 HH for (inaudible) if you're a de  
3 minimus one, all you have to do is  
4 do recordkeeping on it so that's  
5 never triggered permitting here. I  
6 would like for maintenance on an  
7 engine to be in -- in some of these  
8 other newer NESHAPs that are area  
9 source ones, where all you're looking  
10 at is some maintenance records you've  
11 got to maintain, or practice you've  
12 got to meet, do we really want to  
13 trigger permitting here?

14 MS. STEGMANN: Laura. This  
15 is Kendall Stegmann. On some of  
16 those maintenance activities I think  
17 they're -- some of those are used to  
18 reduce emissions, to maintain and  
19 have the engine be more efficient,  
20 therefore you're going to have  
21 somewhat of a reduction of emissions.  
22 And sometimes that would be included  
23 as a specific condition of a permit.  
24 That's what I'm concerned with.

25 MS. LODES: Well, all the

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1 permits -- the way the permits are  
2 currently written --  
3 MS. STEGMANN: Right.  
4 MS. LODES: -- all they do  
5 is reference NESHAP ZZZZ and a  
6 specific emission won't call out  
7 specifically anything other than  
8 you've got to comply with ZZZZ.  
9 MS. STEGMANN: Right. But  
10 my concern is some of these  
11 maintenance activities could lead to  
12 emission reduction. So, therefore, I  
13 would think it would be something  
14 that should be in a permit.  
15 MS. LODES: I mean you're  
16 required to comply with federal  
17 regulation regardless of whether or  
18 not you're permitted.  
19 MS. STEGMANN: Right. I  
20 know but since it deals with emission  
21 reductions, to me that leads to  
22 having a -- needing to have a  
23 permit. That's my opinion.  
24 MS. LODES: Jim, you're  
25 dealing with some of these.

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1 MR. HAUGHT: Yeah. There's  
2 no doubt there is more to come in  
3 the future too, so --  
4 MS. LODES: Right. And  
5 that's why I'm like --  
6 MR. HAUGHT: -- there's more  
7 of those that are proposed. I guess  
8 I was going back and looking at --  
9 for the existing source. I'm back  
10 in Subchapter 1. That doesn't  
11 necessarily mean a source that's  
12 already permitted. So you could have  
13 something that's not required to have  
14 a permit now because this is under  
15 modification. So it's not a new  
16 source.  
17 MS. LODES: Right.  
18 MR. HAUGHT: So you could  
19 have a source that's not subject to  
20 permitting, add a piece of equipment  
21 that just had a change your oil,  
22 change your belts every so often.  
23 MS. LODES: You swing an  
24 engine at a station, you've got an  
25 existing engine that's permit exempt

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1 because it was prior to anything that  
2 didn't require a permit. You swing  
3 it with another one that's lifetime  
4 replacement that was built in 1985  
5 and the only requirement is to change  
6 your engine and you're not going to  
7 have go out and get a construction  
8 because that's a modification of an  
9 existing facility.  
10 MR. HAUGHT: I think it's a  
11 good question as to what the intent  
12 was. What level? I mean do they  
13 think that those things -- that those  
14 maintenance practices are put in  
15 place to control emissions? And if  
16 they are then -- I mean I guess I  
17 could see where that would be but  
18 there is no doubt there is going to  
19 be more of those coming up. So I  
20 think -- I think it's a real valid  
21 question.  
22 MS. LODES: I mean that's  
23 -- I mean these area source NESHAPS  
24 -- and I'm picking on ZZZZ because  
25 it's one of the biggest ones that

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1 effects a lot of sources here in  
2 Oklahoma but there is similar ones  
3 for anything down from the local  
4 welding shop that's really just a  
5 maintenance record more than it is  
6 anything else and is there a way to  
7 clarify work practice standard versus  
8 maintenance?  
9 MR. SINGLETARY: I think  
10 it's going to be difficult without it  
11 going on a case-by-case basis to  
12 determine which -- which one of these  
13 activities is meant to reduce  
14 emissions and not -- and I think if  
15 you look at the prior version of  
16 this rule, it just says subject to a  
17 NSPS or NESHAP and I don't think  
18 this changes that at all, it just  
19 clarifies it a little bit and  
20 specifically mentions what -- you  
21 know, what parts of the CFR we're  
22 referring to there. Does it add  
23 anything of significance to the  
24 definition or to the --  
25 MS. LODES: Right. And I

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1 do realize that part of the rule.  
2 I'm just wondering if -- because this  
3 definition was originally written  
4 before the promulgation of any area  
5 source NESHAPs or NSPSs. I mean a  
6 whole lot of things were not subject  
7 to NSPS or to NESHAP at the time we  
8 -- this definition was done many,  
9 many years ago and so things do keep  
10 coming down the pike. Is there a  
11 way that we want to clarify it for  
12 the future so we're not creating such  
13 a huge burden on everybody to permit  
14 things that really aren't doing much?  
15 I mean a lot of these area source  
16 standards -- especially ones that are  
17 only subject to some kind of a  
18 maintenance, how much rule -- is that  
19 what we really intend to keep on --  
20 permit applications on.

21 MR. SINGLETARY: Well, how  
22 do we differentiate between those  
23 that actually are intended to reduce  
24 emissions and those that aren't? I  
25 mean that's going to be difficult and

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1 oil for some other reason. You  
2 know, why would they care if a piece  
3 of equipment fell apart or not?  
4 They're only concerned about whether  
5 or not it emits. So --

6 MR. SINGLETARY: If it's a  
7 NESHAP, yeah. That's correct.

8 MR. GAMBLE: So it's always  
9 been my thought that any requirement  
10 that shows up in a regulation is  
11 intended for emissions reduction and  
12 if a piece of equipment is subject  
13 to something regardless of how  
14 insignificant it is -- recordkeeping  
15 or whatever, that has to be permitted  
16 as such. Now if that's different,  
17 well, that changes my world a little  
18 bit.

19 MS. LODES: Recordkeeping  
20 only, has never been required to be  
21 permitted.

22 DR. SHEEDY: It wouldn't be  
23 a (inaudible).

24 MS. LODES: I mean I just  
25 think because NESHAP HH is one that

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1 that's going to be case-by-case  
2 depending on the area source NESHAP.  
3 I don't -- I'm not sure at this  
4 point. We haven't discussed that  
5 issue so I'm not sure exactly how  
6 you would -- how we could do that.

7 MS. LODES: Okay. I just  
8 was --

9 MR. SINGLETARY: Do you have  
10 any suggestions or --

11 MS. LODES: I'm not going  
12 to say I have any brilliant  
13 suggestions at this moment. It just  
14 was something that I wanted to point  
15 out, work practice standard we don't  
16 define anywhere in here and it is  
17 more of a vague term as to what is a  
18 work practice standard or versus  
19 something else.

20 MR. GAMBLE: Well isn't that  
21 true that if some requirement shows  
22 up in a Federal Register or in a  
23 regulation that EPA has put out that  
24 it's intended to reduce emissions. I  
25 mean they wouldn't say change your

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1 is very clear, that it's only  
2 appeared de minimus, it's only  
3 recordkeeping, and that is not --  
4 that is something that everybody over  
5 here has always said if it is just  
6 subject to recordkeeping like NSPS  
7 (k)(b) for the size of a small tank  
8 that that did not require permitting.

9 MS. MADISON: And that's  
10 where this rule proposal came from is  
11 that we are trying to promulgate our  
12 actual practice.

13 MS. LODES: Well, correct.  
14 And I do realize that and I  
15 appreciate that clarification because  
16 I get asked on a regular basis by  
17 clients, well, it (inaudible) NSPS or  
18 NESHAP. I'm like well, but the  
19 Agency's policy has always been this.  
20 So I just -- because we've run into  
21 so many of these lately. And I know  
22 we've got -- I don't know if we've  
23 got any comments from the public on  
24 this particular rule --

25 MS. BOTCHLET-SMITH: When

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1 the Council is through discussion I  
2 was going to call for those.  
3 MS. LODES: Oh. Okay.  
4 MS. BOTCHLET-SMITH: Are you  
5 through with your discussion?  
6 MS. LODES: Okay. So we  
7 might see if --  
8 MS. BOTCHLET-SMITH: Are  
9 there other questions from the  
10 Council at this time? Okay.  
11 MS. LODES: This is all I  
12 had on this particular rule. I just  
13 wanted to see if anybody has a  
14 comment.  
15 MS. BOTCHLET-SMITH: Okay.  
16 At this time we'll take comments from  
17 the public. Angie Burckhalter.  
18 MS. BURCKHALTER: Good  
19 morning. My name is Angie  
20 Burckhalter and I'm with the Oklahoma  
21 Independent Petroleum Association.  
22 My comments are really related to  
23 Subchapter 1 and I think staff  
24 covered my proposed definition and  
25 they had proposed a minor

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1 modification to use the and/or in the  
2 last part between designed and  
3 permitted. I'm fine with that and  
4 so I would -- I would recommend that  
5 you choose my proposed recommendation  
6 just for the mere fact that I think  
7 that it clarifies the intent a little  
8 better and it's very similar to the  
9 December 2011 version which is the  
10 basic strikeout of the potential to  
11 emit. So there is not much  
12 difference but I think it just helps  
13 clarify for the regulated entities  
14 really what DEQ's intent is.  
15 That's all I have. Thank you.  
16 MS. BOTCHLET-SMITH: Thank  
17 you, Angie. Bud Ground.  
18 MR. GROUND: Good morning.  
19 I'm Bud Ground with Public Service  
20 Company of Oklahoma. And until this  
21 morning I thought that was a great  
22 definition, but in listening to some  
23 of this conversation I'd say it  
24 actually has confused me. And I was  
25 hoping I could get some

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1 clarification. Because in the  
2 definition it --  
3 MR. BRANECKY: Are you  
4 talking about --  
5 MR. GROUND: -- commencement  
6 of operation -- and I guess working  
7 for an electric utility the operation  
8 of our facilities is you're firing a  
9 fuel to make steam which would in  
10 turn, turn a turbine, but in that  
11 firing of a fuel, that means you  
12 have the pollution controls and it is  
13 a permitted source and everything has  
14 to go with that.  
15 But in reading this definition  
16 it says any activity which has the  
17 potential to emit any regulated air  
18 pollutant. And so we've had, just  
19 internally and I think even with DEQ,  
20 some discussions on exactly what --  
21 when we commence operation. And now  
22 that it's -- you know, when I heard  
23 this discussion -- because our  
24 understanding or our belief was when  
25 we put a fuel into a boiler then you

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1 have a potential to emit and that is  
2 when you have actually commenced  
3 operation. But this to me is  
4 confusing a little bit because it  
5 says, which has the potential to  
6 emit. And when we have a fuel we  
7 definitely have a potential to emit.  
8 MR. BRANECKY: I don't see  
9 a potential to emit.  
10 MS. BOTCHLET-SMITH: That  
11 was -- that was struck in the  
12 revision, Bud.  
13 MR. GROUND: Okay. This  
14 didn't come from right there? This,  
15 I believe, came from right over  
16 there.  
17 MS. BRADLEY: It's did, Bud.  
18 But that was the version that was  
19 proposed.  
20 MS. BOTCHLET-SMITH: I think  
21 what we've got is on the front table  
22 -- the registration table, we have  
23 copies of the rules as though -- as  
24 they were proposed and posted on the  
25 website. And then do we have copies

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1 of the proposed change for the  
2 audience?

3 MS. MADISON: No.  
4 MR. GROUND: No.  
5 MS. BOTCHLET-SMITH: But you  
6 have it now?

7 MR. GROUND: Okay. No.  
8 And I see it now. Because it is  
9 different. It says, cause to begin  
10 emitting a regulated air pollutant  
11 from any activity. Which changes it  
12 a little bit. Actually it changes  
13 it a lot.

14 MR. TERRILL: Yeah. That's  
15 the problem that we get in to. We  
16 have to have a date that we have to  
17 actually put this out for comment and  
18 then we have changes between then and  
19 so you just got an older version is  
20 what happened. Somebody else has  
21 already pointed that out that that  
22 was an issue and we moved on and I  
23 think we've taken care of your  
24 problem, I hope.  
25 MR. GROUND: Well, I don't

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1 know. So when is -- on a -- when we  
2 start a utility boiler, when do we  
3 commence operation? Cause to begin  
4 emitting a regulated air pollutant.  
5 And our regulated air pollutant --  
6 well, there is several of them but,  
7 I guess our understanding would be  
8 when you are doing the activity for  
9 which the operation caused an  
10 emission which is combusting fuel.

11 MR. HAUGHT: But I brought  
12 that up in talking to the staff  
13 earlier about that an I had told  
14 them what my intent was and they  
15 could correct me and see if the  
16 staff has a different interpretation.  
17 But the idea was -- is that for a  
18 facility like that, an electric  
19 generating facility, it's going to be  
20 being constructed and operating up  
21 until it commences operation or until  
22 it actually gets the operating permit  
23 under the construction permit. So  
24 you still have limits and  
25 requirements on that construction

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1 permit. So the part that we're  
2 looking at here is when would that  
3 trigger then the clock to start when  
4 you do the operating permit. And  
5 the intent was you may put a boiler  
6 in early before the rest of the  
7 process is there and it may be fired  
8 as a test fire while the technicians  
9 and people are there installing it  
10 and then it's shutdown. The facility  
11 is not producing power until some  
12 point.

13 So I think the intent is  
14 you're operating under the conditions  
15 of the construction permit until you  
16 get the operating permit and that  
17 clock starts once you started  
18 producing power --

19 MR. GROUND: Or as designed.  
20 MR. HAUGHT: Or as designed.  
21 Whatever it was designed to do.  
22 Yeah. Whatever that facility was  
23 designed to do. So all of those  
24 activities up until then, not that  
25 they are unregulated, they're just

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1 regulated under your construction  
2 permit.

3 MR. GROUND: Under the  
4 construction permit. Okay.  
5 MS. LODES: And they --  
6 MR. COLLINS: I think that's  
7 a good question, Bud. I'm thinking  
8 for the record though do we want a  
9 response from the DEQ staff?

10 MS. BOTCHLET-SMITH: I think  
11 Madison is prepared to answer that.  
12 MS. LODES: Okay.  
13 MR. COLLINS: Okay.  
14 MS. LODES: But if it's a  
15 test firing it would not be --  
16 constitute -- correct?

17 MS. MADISON: Under the  
18 definition -- this goes back to what  
19 I said earlier about the two-part  
20 test under the definition. A literal  
21 reading of the definition would mean  
22 that there -- it would have to be  
23 something -- there's an activity for  
24 which the source was designed and  
25 permitted -- and/or permitted to do

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1 and that activity has to result in  
2 emissions. So once you meet those  
3 two criteria you would commence  
4 operations. So a test firing, I  
5 don't -- yes, you would have to meet  
6 both.

7 MR. GROUND: Okay. So are  
8 you saying there are periods of time  
9 where emissions are free? I mean on  
10 a new furnace, when you're building  
11 it, you do light up the pilots and  
12 then some of burners to cure the  
13 refractory and during that time it is  
14 emitting.

15 MS. MADISON: Right. And  
16 there are operating limits under the  
17 construction permit. Those emissions  
18 wouldn't be free. They would be  
19 accounted for in the construction  
20 permit.

21 MR. GROUND: It just  
22 wouldn't trigger the requirements.

23 MS. MADISON: That's right.  
24 It just wouldn't trigger the  
25 requirement to obtain the operating

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1 permit.

2 MR. COLLINS: Okay.  
3 MS. LODS: You still have  
4 to pay fees and report those on an  
5 emissions inventory on your  
6 consumption --

7 MR. GROUND: Oh, yeah.  
8 Yeah.

9 MS. LODS: -- but there --  
10 and you're operating under that. And  
11 that's -- that's my understanding  
12 from our discussion.

13 MS. MADISON: Uh-huh.

14 MS. BOTCHLET-SMITH: Okay.  
15 Do we have any other questions or  
16 comments from the public before we  
17 turn this back to the Council?  
18 Seeing none, if the Council has  
19 further questions for the staff we  
20 can go through those at this time.

21 MR. HAUGHT: So we'll act  
22 on these -- at the last meeting we  
23 had Subchapter 8 in here and we  
24 broke that out, so we act on these  
25 together? Subchapter 1 and

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1 Subchapter 7, is that one -- one  
2 motion to approve both of them?

3 MS. MILLER: Yes.

4 MS. LODS: I don't see any  
5 -- I mean do I love the work  
6 practice standard definition in  
7 there? No. But I don't really have  
8 any way to necessarily define that  
9 any better than what it is. So I  
10 mean that's the practice that the DEQ  
11 has always gone with.

12 MR. HAUGHT: (Inaudible)  
13 clear in this.

14 MS. LODS: I mean it is  
15 definitely clearer than it was before  
16 so I'm -- I'm pleased with that part  
17 of it all. Would I like to carve  
18 out maintenance? Yes. But at this  
19 time I just don't know that we  
20 clearly can.

21 MR. HAUGHT: Okay.

22 MR. TERRILL: We'll have a  
23 year before we can open this up  
24 again so we can track this and if  
25 there is an issue that comes up we

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1 can always correct it at a later  
2 date. It gives us time to put this  
3 into place and see if there really  
4 is an issue -- a practical issue  
5 anyway.

6 MS. LODS: Right. And I  
7 know -- I mean I know of at least  
8 two large regulations that are coming  
9 out that will have a lot of  
10 maintenance or work practice-type  
11 standards and once the federal -- the  
12 feds have finalized those rules then  
13 we will be able to take a better and  
14 clearer look at how this would be  
15 worded better.

16 MR. TERRILL: And there is  
17 other places in our rules we have to  
18 take into account. There are bigger  
19 discussions here than just this one  
20 section.

21 MS. LODS: Right.

22 MR. TERRILL: So we'll --  
23 having a year and some other things  
24 coming into play would be good and  
25 then we can come back and take

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1 another look over the next year and  
2 see if we do need to make some  
3 additional adjustments.  
4 MS. LODES: Okay.  
5 MR. BRANECKY: Are you ready  
6 for a motion? How about -- I need  
7 to make a motion?  
8 MS. LODES: I'm ready.  
9 MR. BRANECKY: I'm just  
10 going to do it on Subchapter 1.  
11 We're splitting it up, right? Or  
12 are we doing them together?  
13 MS. BOTCHLET-SMITH: I think  
14 we intended --  
15 MR. BRANECKY: To do them  
16 all together?  
17 MS. BOTCHLET-SMITH: -- for  
18 that to go together.  
19 MR. BRANECKY: Okay. Do  
20 them together. Well then I will  
21 make the motion that we approve the  
22 revisions to Subchapter 1 and  
23 Subchapter 7 as presented to us today  
24 and that includes the addition of the  
25 "/or" in the definition of

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1 "commencement of operation" which was  
2 presented to us today. Is that  
3 clear?  
4 MS. LODES: I --  
5 MR. BRANECKY: Oh, I'm  
6 sorry. It's the OIPA version.  
7 MS. LODES: Yes. It is.  
8 MR. BRANECKY: Okay.  
9 MS. LODES: I have a  
10 motion. Do I have a second?  
11 MR. BRANECKY: With the  
12 addition of "/or".  
13 MR. COLLINS: I'll second.  
14 MS. LODES: I --  
15 MS. MYERS: Are we  
16 presenting this as individual or  
17 altogether?  
18 MS. LODES: This is  
19 Subchapter 1 and 7 altogether.  
20 MS. MYERS: Okay. And  
21 those are all the changes that you're  
22 proposing?  
23 MR. BRANECKY: Right. The  
24 OIPA version with the addition of the  
25 "/or" in that language.

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1 MS. LODES: Correct. Okay.  
2 I have a motion and a second.  
3 Myrna, will you please call roll.  
4 MS. BRUCE: David Gamble.  
5 MR. GAMBLE: Yes.  
6 MS. BRUCE: Gary Collins.  
7 MR. COLLINS: Yes.  
8 MS. BRUCE: Montelle Clark.  
9 MR. CLARK: Yes.  
10 MS. BRUCE: David Branecky.  
11 MR. BRANECKY: Yes.  
12 MS. BRUCE: Jim Haught.  
13 MR. HAUGHT: Yes.  
14 MS. BRUCE: Sharon Myers.  
15 MS. MYERS: Yes.  
16 MS. BRUCE: Bob Lynch.  
17 DR. LYNCH: Yes.  
18 MS. BRUCE: Laura Lodes.  
19 MS. LODES: Yes.  
20 MS. BRUCE: Motion passed.  
21 MS. BOTCHLET-SMITH: The  
22 next item on the Agenda is Number  
23 5B. This is OAC 252:100-31, Control  
24 of Emissions of Sulfur Compounds.  
25 Mr. Brooks Kirlin of the staff will

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1 give our presentation.  
2 MR. KIRLIN: Madam Chairman,  
3 Members of the Council, ladies and  
4 gentlemen, I'm Brooks Kirlin. I am  
5 an engineer with the Rules and  
6 Planning Section.  
7 The Department is proposing to  
8 amend the requirements of Subchapter  
9 31, Control of Sulfur Compounds, and  
10 to clarify the existing language.  
11 You may recall that we have made  
12 presentations on Subchapter 31 and  
13 the SO2 of NAAQS at several previous  
14 Council meetings, and no action by  
15 the Council was taken on those  
16 occasions. This is the third time  
17 for the Council to consider the  
18 proposed amendments to Subchapter 31.  
19 We have included in your folder a  
20 version of the rules that shows the  
21 differences between our October  
22 proposal and today's proposal,  
23 including those that we presented at  
24 that time as additional changes at  
25 the last Council meeting. And that's

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1 -- I'll refer that to -- to that as  
2 the comparison version. It also  
3 highlights in yellow one change that  
4 was -- a group of changes that was  
5 requested by one commenter, and a  
6 couple of staff corrections. I will  
7 highlight those changes as I go  
8 through the proposal.

9 Rules controlling emissions of  
10 sulfur oxides were first effective on  
11 July 1, 1972 as Oklahoma Department  
12 of Health Regulation 16. The 1972  
13 rule contained ambient sulfur dioxide  
14 or SO2 standards for all facilities  
15 that existed on the effective date.  
16 These limits are substantially the  
17 same as those found in the current  
18 rule under Section 31-7, Subsection  
19 (a). Effective December 31, 1974,  
20 these ambient standards were also  
21 applied to new, that is after that  
22 date, petroleum and natural gas  
23 processing facilities.

24 The 1972 rule also set SO2 and  
25 sulfuric acid mist emission limits

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1 "new facility" and "existing  
2 facility" that are currently in  
3 Subchapter 31.

4 The most substantial change in  
5 the overall proposal would be to  
6 Subsection 31-7(a) and that would be  
7 in your packet proposal found on the  
8 top of Page 3 of the Subchapter 31  
9 proposal. The Department is  
10 proposing to drop the five SO2  
11 ambient air standards. We believe  
12 that these standards are outmoded in  
13 light of the relatively new one-hour  
14 SO2 National Ambient Air Quality  
15 Standard of 0.075 ppm. By  
16 comparison, the existing 31-7 allows  
17 a one-hour average of 0.46 ppm. We  
18 do not believe the existing numbers  
19 are protective and staff does not  
20 believe that we have an adequate  
21 rationale or method for simply  
22 adjusting these numbers in a way that  
23 would allow permittees and our permit  
24 writers to demonstrate compliance  
25 with the NAAQS and the purpose of

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1 for new sulfuric acid plants, and SO2  
2 emission limits for new fuel-burning  
3 equipment, sulfur recovery plants,  
4 nonferrous smelters and paper pulp  
5 mills. Again, process equipment  
6 installed after the effective date of  
7 July 1, 1972 would be considered new.

8 After the rule first became  
9 effective it was modified ten times  
10 prior to 2002, when the rule was  
11 substantially rewritten to its  
12 present form.

13 The rule was again modified  
14 slightly in 2003 to clarify that the  
15 ambient SO2 standards in Section 31-7  
16 apply to the entire facility, not  
17 just individual units within the  
18 facility. The rewrite in 2002  
19 corrected many confusing aspects of  
20 the rule, but confusion still exists  
21 with regard to existing and new  
22 sources. This proposal inserts the  
23 applicable dates in the individual  
24 sections rather than relying on the  
25 somewhat convoluted definitions of

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1 the Subchapter using current modeling  
2 and monitoring protocols.

3 As we mentioned during previous  
4 Council meetings, we did receive a  
5 comment from EPA Region 6 staff  
6 reminding us that we will need to  
7 demonstrate that dropping these  
8 standards will not violate the  
9 "anti-backsliding" provisions of the  
10 Clean Air Act. After a direct  
11 discussion with these same EPA staff,  
12 we believe that once a change is  
13 finalized, we will be able to show  
14 that we won't lose any substantial  
15 protection, considering the NAAQS and  
16 other existing requirements.

17 We have again proposed a  
18 definition for "alternative fuel" to  
19 add that to the definitions under  
20 Section 31-2, and requirements under  
21 Section 31-25 for fuel-burning  
22 equipment that use alternative fuel.  
23 That requirement is on the top of  
24 Page 6 of the original proposal.  
25 For October's Council meeting we

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1 reworded these requirements in  
2 response to comments, to better focus  
3 them on the purpose of the  
4 Subchapter. In today's proposal, we  
5 have also qualified the requirement  
6 to meet the SO2 emission limit with  
7 the phrase "unless another limit  
8 representing BACT or equivalent is  
9 specified in the source's permit".  
10 That's -- you can see it underlined  
11 in the comparison document from your  
12 folder that that change is shown,  
13 it's about halfway down Page 4 if  
14 you want to look at that.

15 We did not want to force a  
16 facility to increase overall  
17 emissions by having to flare a gas  
18 stream that would otherwise be usable  
19 as fuel, simply because they could  
20 not meet this SO2 limit. That was  
21 the purpose of that last change.

22 Staff has again proposed adding  
23 a new Section 31-4, to avoid a  
24 potential double reporting  
25 requirement on excess emissions that

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1 are covered by both Subchapter 31 and  
2 an applicable 40 CFR Part 60  
3 standard. The new Subchapter 9 has  
4 alternative reporting provisions that  
5 accommodate the excess emissions  
6 reporting requirements for the 40 CFR  
7 Part 60 rules. However, these  
8 alternative reporting provisions  
9 aren't currently available for the  
10 identical or simultaneous Subchapter  
11 31 excess emissions. The new Section  
12 31-4 has been added to avoid  
13 requiring double reporting by  
14 extending the alternative excess  
15 emissions reporting option to these  
16 sources.

17 Notice of the proposed rule  
18 changes was published in the Oklahoma  
19 Register on December 1, 2011. We  
20 received comments from Mr. Steven  
21 Smith of Verallia, formerly Saint  
22 Gobain. A copy of these comments  
23 and a Response to Comments are  
24 included in your folder. I will go  
25 over those comments in a moment.

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1 The Response to Comments  
2 document also addresses several  
3 comments we discussed during the  
4 previous two Council meetings. These  
5 comments were from Mr. Gamble on  
6 behalf of Conoco-Phillips; Mr. Guy  
7 Donaldson of EPA; Mr. Stephen Landers  
8 on behalf of Georgia-Pacific; Mr. Tom  
9 Rader on behalf of Lone Star  
10 Industries d/b/a Buzzi Unicem USA;  
11 and Ms. Kathryn Crenwelge on behalf  
12 of International Paper Valliant Mill.

13 As I mentioned, the comparison  
14 version of the rules included in your  
15 folder highlights a number of minor  
16 changes made in response to the  
17 previous comments, Council  
18 suggestions, and staff discussions.  
19 First, while looking into a question  
20 on whether the monitoring  
21 requirements in Section 31-16 are  
22 still needed, we found that those  
23 requirements are apparently related  
24 to requirements in 40 CFR Part 51,  
25 Appendix P. Therefore, we recommend

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1 retaining the use of the term "fossil  
2 fuel steam generators" in Section  
3 31-16, and adding the definition for  
4 that term in 40 CFR -- from 40 CFR  
5 Section 51.100(ee) in place of the  
6 previously proposed "steam generator  
7 unit".

8 Prior to the October Council  
9 meeting, a comment from  
10 Georgia-Pacific expressed concern  
11 over the proposed phrase "the owner  
12 or operator shall continuously  
13 monitor" as we had applied it to the  
14 opacity monitoring for fuel-burning  
15 equipment with heat input value of  
16 250 million BTUs per hour. That  
17 would be under -- originally that's  
18 under Section 25 which is on Page 5  
19 of your proposal.

20 Staff concurred, and  
21 recommended replacing that phrase  
22 with "the owner or operator shall  
23 install, calibrate, maintain, and  
24 operate a continuous monitoring  
25 system" in several locations. After

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1 further consideration, we now  
2 recommend the use of that phrase once  
3 each in Sections 31-3 (sic), which is  
4 on Page 3; 31-16 Page 4; and 31-25  
5 as it applies to continuous  
6 monitoring of SO2 emissions only.  
7 MS. LODES: Okay. Okay.  
8 MR. KIRLIN: You want me to  
9 slow down a little.  
10 MS. LODES: Sorry. Slow  
11 down for a second here, because I  
12 want to make sure I'm following what  
13 you're talking about.  
14 MR. KIRLIN: Okay. Okay.  
15 MS. LODES: So you're  
16 wanting to add --  
17 MR. KIRLIN: (Inaudible).  
18 MS. LODES: -- okay. So  
19 where exactly are we adding that  
20 definition?  
21 MR. KIRLIN: Okay. In  
22 Section 31-13 which is on Page 3 --  
23 MS. LODES: Okay.  
24 MR. KIRLIN: -- of the  
25 proposed proposal.

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1 MS. LODES: But it's not in  
2 our highlighted copy, right?  
3 MR. KIRLIN: It should be.  
4 I'm sorry. On Page 2 at the bottom  
5 of your comparison version.  
6 MS. LODES: Okay.  
7 MR. KIRLIN: It does show  
8 there because that was made after our  
9 original proposal in October. So --  
10 MS. LODES: Okay. So  
11 you've got it here --  
12 MR. KIRLIN: Right. And in  
13 31-16 which is the top of Page 3 of  
14 the comparison version.  
15 MS. LODES: Okay.  
16 MR. KIRLIN: And then in  
17 Section 31-25, on Page 4, it is at  
18 the top half of the page where it  
19 says sulfur dioxide --  
20 MS. LODES: Okay.  
21 MR. KIRLIN: -- under  
22 emissions monitoring.  
23 MS. LODES: Are those the  
24 only places you're adding?  
25 MR. KIRLIN: Those are the

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1 places where we are intending to add.  
2 MS. LODES: Thank you.  
3 MR. KIRLIN: Sorry. Okay.  
4 We have not added it to opacity  
5 requirement which is on that same --  
6 that last page, because following  
7 discussions of the last Council  
8 meeting and further staff  
9 consideration, we dropped our  
10 original recommendation for any  
11 changes to that -- the paragraph in  
12 Section 25 that relates to opacity  
13 monitoring for new fuel-burning  
14 equipment. We recognize concerns  
15 that were expressed by several  
16 Council Members as well as members of  
17 the public, over the presence of the  
18 opacity monitoring requirement in the  
19 middle of the Subchapter that deals  
20 with sulfur emissions. I guess it  
21 made sense to the folks in the '70s  
22 to put it there.  
23 Aside from any contribution of  
24 SO2 emissions as a precursor to  
25 PM2.5, staff agrees that if we were

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1 starting from scratch today, the  
2 opacity monitoring requirement would  
3 likely be placed with other opacity  
4 requirements in Subchapter 25 --  
5 different subchapter. However, the  
6 requirement is not currently  
7 duplicated in Subchapter 25, and  
8 there are certain sources that still  
9 are or would be subject to this  
10 requirement. Therefore, we don't  
11 feel we could simply delete it from  
12 Subchapter 31, we would need to open  
13 Subchapter 25 and move it there. We  
14 would also need to take a look at  
15 the sections of Subchapter 43 that  
16 are related to monitoring opacity.  
17 So at this time staff has recommended  
18 no changes to the existing language  
19 of the opacity paragraph in  
20 31-25(c)(1)(A), although it would be  
21 renumbered to 31-25(3)(A)(i) under  
22 our proposal.  
23 MR. BRANECKY: So, Brooks,  
24 are you saying that there are  
25 facilities that are required to have

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1 an opacity standard but are not  
2 required to monitor? Is that why  
3 we're leaving this requirement for  
4 monitoring in this?

5 MR. KIRLIN: If we removed  
6 it they would -- yes. I mean the 25  
7 sets a -- Subchapter 25 sets an  
8 opacity limit and for certain groups  
9 of facilities it says you have to  
10 monitor continuously, but it does not  
11 -- and then it also says if you --  
12 monitoring continuously if you have  
13 to, these are some things you have  
14 to do. But it doesn't say -- I  
15 guess this is a group that under  
16 Subchapter 31 is required to  
17 continuously monitor opacity. It  
18 isn't -- that's not specified in  
19 Subchapter 25.

20 MR. HAUGHT: Brooks, is this  
21 -- I mean this doesn't say  
22 continuously monitor in this opacity.  
23 So does it bring anything? Does it  
24 add value?

25 And then a second part of that

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1 -- I'll going ahead and say -- are  
2 those requirements not covered in  
3 that facility's permit on how they're  
4 going to monitor? I'll go back to  
5 the discussions before. If you have  
6 an opacity requirement, just implying  
7 or going over to the sulfur chapter  
8 to find that on what that requirement  
9 is -- not the limit but the  
10 requirements. I would -- I just  
11 wonder is it already something that  
12 is covered in a permit on a facility  
13 by facility basis or not?

14 MR. KIRLIN: I'm sure it  
15 would be included in a particular  
16 permit. It would list that.  
17 Specifically this actually applies to  
18 new fuel-burning equipment so  
19 theoretically if the new one at the  
20 facility would be -- you know, was  
21 built or modified, it would fall  
22 under this requirement. And then I  
23 guess if it wasn't here then there  
24 wouldn't be required. Now it doesn't  
25 -- this doesn't say use the word

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1 continuously in this paragraph,  
2 however, there are requirements in  
3 Subchapter 43 that deal with  
4 monitoring of opacity that says if  
5 you -- I mean it gives a couple of  
6 options, I guess. It specifies more  
7 specifically how opacity would have  
8 to be monitored. So, like I said,  
9 we're -- at this point we're  
10 proposing to just leave the existing  
11 language and, you know, on a future  
12 date if we want it -- if we can  
13 clarify it in a different subchapter  
14 and remove it here.

15 MR. BRANECKY: Can we at  
16 least change the words "smoke  
17 detector"? Put First Alert Smoke  
18 Detector instead? Does that work?

19 MR. KIRLIN: That was our  
20 original --

21 MR. BRANECKY: That shows  
22 its age.

23 MR. KIRLIN: Yeah. That  
24 was the original intent. I mean  
25 that was our plan. I don't know

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1 without rewording the --

2 MR. BRANECKY: I guess I  
3 still don't see any value in having  
4 it in there. Just have it in there  
5 just because it's already there  
6 doesn't make much sense to me. I  
7 think it's the responsibility of the  
8 Council to make these rules as clear  
9 as possible.

10 MR. KIRLIN: Okay.

11 MR. BRANECKY: I guess to  
12 me it doesn't help any. I mean  
13 you're measuring opacity -- if you  
14 say you measure opacity, but you look  
15 in this rule there is no opacity  
16 standards. What are you measuring it  
17 against? If somebody looks at this  
18 rule and says, well, I've got to  
19 measure opacity, but it doesn't say  
20 against what. What's my limit?  
21 There is no limit in there. So what  
22 -- it just --

23 MR. KIRLIN: I'm not sure  
24 that I can answer. I don't  
25 understand why it was put in this

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1 location. There is -- like I said  
2 there is the opacity --  
3 MR. BRANECKY: And the same  
4 thing --  
5 MR. KIRLIN: -- requirement  
6 in Subchapter 25 which would apply --  
7 MR. BRANECKY: Does not 43  
8 require monitoring of opacity?  
9 MR. KIRLIN: If you have to  
10 monitor it, this is how you would do  
11 it. These are the things that have  
12 to be done. Subchapter 25 does have  
13 a limit on opacity.  
14 MS. BRADLEY: We generally  
15 -- Cheryl Bradley, Manager of the  
16 Rules and Planning Section. We  
17 acknowledge that it's not perfect at  
18 this point. However, we have  
19 existing language that is currently  
20 part of our approved SIP. On face  
21 value in comparing the language and  
22 applicability and for continuous  
23 opacity monitoring in Subchapter 25  
24 and the language in 31, they do not  
25 apply to the same sources so I

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1 cannot make a compelling argument  
2 that by removing the requirement to  
3 monitor essentially what becomes a de  
4 facto continuous opacity monitoring  
5 in 31. Then if I remove it from 31  
6 that the requirements in 25 will  
7 suffice. Unfortunately, we do not  
8 have Subchapter 25 open at this time  
9 in order to move the changes that  
10 need to be made to Subchapter 31  
11 over to 25. We would have to  
12 address that in a separate activity.  
13 And I do believe it's justified  
14 because we're looking at three  
15 subchapters that may be impacted;  
16 Subchapter 43, which includes our  
17 monitoring requirements and  
18 Subchapter 25, which addresses  
19 opacity.  
20 Granted we would like to have  
21 source specific rules where one  
22 source can go to one location in our  
23 rules and get all the requirements  
24 that are applicable to that issue.  
25 I think it's a luxury that we can't

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1 always indulge because our rules are  
2 getting so complex and we're having  
3 to deal with the changing landscape  
4 and integration. So if the Council  
5 prefers, we -- staff could look into  
6 making this subsequent change to  
7 remove the opacity requirements and  
8 move them to a more appropriate  
9 location such as Subchapter 25.  
10 MR. COLLINS: I've got a  
11 question. I guess regardless of  
12 whether it's redundant or not  
13 necessary, is the language as it  
14 exists, technically correct? I'm not  
15 familiar with opacity monitors but is  
16 a photoelectric or other type smoke  
17 detector, is that technically correct  
18 in today's time?  
19 MR. KIRLIN: It's not the  
20 language that I would choose. I  
21 don't know that it's --  
22 MR. COLLINS: Is a  
23 photoelectric type opacity monitor  
24 what is used today if I was going to  
25 install a new piece of equipment?

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1 MR. KIRLIN: You know I  
2 haven't gone back to check that.  
3 Like I said our initial intent was  
4 to -- plan was to change it to, you  
5 know, opacity monitoring. So I  
6 hadn't gone back to double check  
7 exactly what the (inaudible).  
8 MS. BRADLEY: As Brooks  
9 mentioned, it wouldn't be the  
10 language that we would propose today.  
11 It is somewhat archaic language. I  
12 think the technology is still based  
13 upon the same principal. There is  
14 some flexibility I believe in the  
15 language itself. I think it says  
16 photoelectric or other type. So it  
17 would allow the flexibility to use  
18 new technology but rather than  
19 modifying the requirement that's in  
20 the existing rule we were going to  
21 leave it as is, acknowledging that it  
22 is an imperfect solution, but one  
23 that could be dealt with more  
24 constructively at a later time.  
25 MS. MYERS: Why is the term

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1 smoke detector used instead of  
2 opacity monitor when you have  
3 monitors that are actually designed  
4 for that purpose?  
5 MS. BRADLEY: If --  
6 MR. KIRLIN: In 1972, I  
7 don't know why they --  
8 MS. MYERS: Then let's  
9 change it. That's what we're here  
10 for. We're supposed to be updating  
11 these rules.  
12 MS. BRADLEY: Correct. And  
13 if Council prefers that we modify the  
14 language in this regard then we  
15 certainly can do so.  
16 MR. BRANECKY: You could be  
17 a smoke detector using Method 9.  
18 MS. MYERS: Not  
19 continuously.  
20 MR. BRANECKY: Oh.  
21 MS. LODES: I say we change  
22 it, but what have you got -- what  
23 are suggestions to change it?  
24 MR. BRANECKY: Strike it.  
25 MS. LODES: Yeah.

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1 MS. MYERS: Strike it  
2 completely would be a good  
3 improvement.  
4 MS. BRADLEY: We are under  
5 extreme scrutiny at this point for  
6 the SO2 rules given the  
7 implementation of the NAAQS. If, on  
8 face value, it's clear that we would  
9 not have an equivalent rule to back  
10 this one up, it creates an  
11 vulnerability in the SIPs emission  
12 that we may not want to have there.  
13 I know that there is some uncertainty  
14 in how the SO2 NAAQS would be  
15 applied but technically I couldn't  
16 show that it's going to effect  
17 exactly the same sources. That would  
18 be the requirement for continuous  
19 opacity monitoring in 25 and what's  
20 currently in 31 right now.  
21 MR. HAUGHT: Are we  
22 comfortable that this gives us  
23 something to stand on that said this  
24 is continuous? In fact, I don't see  
25 the word continuous in here. It

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1 just says you will monitor it. So  
2 going back to David's then why --  
3 will periodic Method 9 not work?  
4 And given facilities of this  
5 size -- given the heat input that  
6 this applies to I would expect or I  
7 would expect that those facilities  
8 would have some type of capacity  
9 requirements specified in their  
10 permit where this isn't necessary to  
11 fallback on this for enforcement.  
12 MR. KIRLIN: Most likely, I  
13 would agree. Like I said most  
14 permits would have something in it  
15 and it would actually probably -- the  
16 permit would probably say opacity and  
17 -- I'm trying to look at 43-7.  
18 There is a -- for visible emissions  
19 monitoring by instrumentation shall  
20 be measured continuously in records  
21 kept, indicating total minutes per  
22 day in which stack discharge effluent  
23 exceeds 20 percent opacity and a  
24 rolling six minute average opacity.  
25 That is under records and reports

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1 required.  
2 MR. HAUGHT: In what  
3 chapter?  
4 MR. KIRLIN: That's in  
5 Subchapter 43-7 --  
6 MR. HAUGHT: Well if it's  
7 --  
8 MR. KIRLIN: -- that relates  
9 to monitoring and testing.  
10 MR. HAUGHT: So if it's  
11 there, why does it -- what does this  
12 add to that?  
13 MR. KIRLIN: It's -- that  
14 is -- unless different -- okay, up  
15 above it, the intro, it says  
16 reports required the director shall  
17 be recorded and submitted on forms  
18 unless different units of measure or  
19 procedure are prescribed by the  
20 director or by the applicable rule or  
21 permit requirement. The units of  
22 measures and procedures described in  
23 paragraphs 1 through 5 in Subsection  
24 shall be used for any report required  
25 by the director. So it -- I would

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1 say that the requirement in  
2 Subchapter 31 requires monitoring of  
3 opacity in Subchapter 43 --

4 MS. MYERS: But in  
5 Subchapter 25, if you look at the  
6 opacity limits that are subject to  
7 that, to determine compliance with  
8 the section, opacity shall be read  
9 either by the certified emissions --  
10 certified visible emissions evaluator  
11 using Test Method 9 or a comp.

12 MR. KIRLIN: Right.

13 MS. MYERS: Continuous  
14 monitor. So back to Jim's question  
15 why can't you do a daily Method 9  
16 instead of having a smoke detector?

17 MR. BRANECKY: I guess to  
18 me the question comes down to does  
19 DEQ feel they need this section in  
20 Subchapter 31 to require a facility  
21 to monitor opacity when needed?

22 MS. MYERS: With sulfur.

23 MR. BRANECKY: With sulfur  
24 -- yeah. Or are there other rules  
25 that cover that for that?

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1 highlighted in the comparison  
2 document on Page 3. They're  
3 highlighted in yellow. They're  
4 intended to further clarify that the  
5 SO2 emission limits listed are  
6 intended to affect emissions  
7 attributable to the burning of fuel.

8 And also as discussed in  
9 October, we've also found that our  
10 previous proposal of using 160 ppmv  
11 total sulfur as a substitute for the  
12 existing 0.1 percent sulfur  
13 monitoring exemption in  
14 31-25(3)(A)(ii)(I) was not correct.  
15 That number is not correct. That's  
16 on Page 5 of the proposal and if you  
17 look on Page 4 of the comparison  
18 document.

19 Staff recommends retaining the  
20 weight percent form as the primary  
21 number, with 0.29 grains per standard  
22 cubic foot and approximately 500 ppmv  
23 as secondary numbers for convenience.

24 Finally, you may recall a  
25 significant discussion during the

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1 MS. BOTCHLET-SMITH: If the  
2 Council will give us just a minute,  
3 I think staff has a answer to that.

4 MR. BRANECKY: Okay. You  
5 want to take a break?

6 MS. LODES: Yeah. I was  
7 going to say you want to take a  
8 break?

9 MS. BOTCHLET-SMITH: Short  
10 recess.

11 MS. LODES: Let's take a 15  
12 minute break.

13 (Break)

14 MS. LODES: Let's -- I know  
15 Brooks was still working on his  
16 presentation. Let's go ahead and let  
17 him finish his presentation and then  
18 we'll come back to the opacity  
19 question in a moment.

20 MR. KIRLIN: Thank you.  
21 All right. Staff recommends a couple  
22 of additional changes to that same  
23 Section 31-25 for new fuel-burning  
24 equipment. As requested by Verallia,  
25 one set of changes, that are

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1 October Council Meeting regarding  
2 Section 31-15. Which is in the  
3 proposal on the top of Page 4,  
4 requirements for existing kraft pulp  
5 mills, and Section 31-27 which is the  
6 bottom of Page 7 of the proposal, at  
7 the very end. Requirements for new  
8 pulp mills. Ms. Kathryn Crenwelge,  
9 on behalf of International Paper,  
10 Valliant Mill, requested that AQD  
11 remove the Subchapter 31 language for  
12 the pulp and paper industry or  
13 recognize that the industry is  
14 subject to other standards, such as  
15 NSPS and NESHAP requirements, which  
16 supersede or take the place of the  
17 Subchapter 31 standards.

18 Staff has had further  
19 discussions regarding these sections.  
20 We know that certain provisions of  
21 NSPS and NESHAPs that apply to the  
22 pulp and paper industry include  
23 requirements that are more stringent  
24 or redundant to some of the  
25 requirements of Subchapter 31. The

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1 requirements in Section 31-15 were  
2 added many years ago to implement  
3 federal requirements for control of  
4 total reduced sulfur from existing  
5 kraft pulp mills as in our Section  
6 111(d) Plans.  
7 EPA's approval of this Section  
8 111(d) plan is codified in 40 CFR  
9 Part 62, Subpart LL. We do not  
10 believe that a change to Section  
11 31-15 would be appropriate at this  
12 time. However, in this proposal,  
13 staff has recommended revocation of  
14 Section 31-27, due to the substantial  
15 overlap of requirements between  
16 Section 31-27 and NSPS and NESHAPS  
17 applicable to new paper mills. We  
18 received a comment in support of this  
19 change from International Paper  
20 yesterday. A copy of that comment  
21 is included in your folder. We do  
22 not believe this change would result  
23 in increased emissions or impacts.  
24 And finally, on Page 1 of the  
25 comparison document -- comparison

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1 version included in your folder,  
2 which highlights in yellow, of two  
3 minor changes from the posted  
4 proposal, to correct a couple of  
5 errors. As in the previous proposal,  
6 staff has recommended moving the  
7 applicability dates for new versus  
8 existing sources to the existing --  
9 to the various sections to which they  
10 apply. This would replace two  
11 existing definitions. The one that  
12 covers the terms "new facility", "new  
13 installation", "new source", and "new  
14 equipment", and the other one that  
15 covers the terms "existing facility",  
16 "existing source", and "existing  
17 equipment". Unfortunately, in  
18 updating the proposal from October,  
19 we inadvertently restored the  
20 definition for "new" sources. It  
21 was, and still is our intent to  
22 actually delete that definition as it  
23 exists.  
24 And then the last proposed  
25 change is to correct a long-standing

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1 typo in the definition of "digester  
2 system". In that definition, the  
3 term "below tank(s)" should instead  
4 be "blow tank(s)".  
5 And staff -- based on these  
6 the staff would recommend that --  
7 asks that the Council recommend the  
8 proposed rule, with the changes  
9 described today, to the Environmental  
10 Quality Board for approval as a  
11 permanent rule change.  
12 MS. BOTCHLET-SMITH: We can  
13 now take questions from the Council  
14 regarding the rule. And I might  
15 mention before we get started with  
16 that, I haven't seen any comment  
17 forms from the audience so if anyone  
18 has decided at this point that they  
19 do want to comment it would be most  
20 helpful for us if you could fill out  
21 one of those forms. Thank you.  
22 MS. BRADLEY: If the Council  
23 would allow, I wanted to recap some  
24 of the really good things about the  
25 changes to Subchapter 31 before we

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1 start going over the issues. It's  
2 important to discuss these fine  
3 points but I thought I could frame  
4 them in the context of what we --  
5 what are the really good things in  
6 the changes.  
7 One, we have eliminated the SO2  
8 ambient concentration provisions  
9 which really are not protective of  
10 the new NAAQS. They were set at  
11 levels that were much higher than --  
12 well, they reflected an old NAAQS and  
13 a different form of the NAAQS.  
14 Also we have added the  
15 alternative or alternate reporting to  
16 acknowledge the process that was  
17 agreed upon in Subchapter 9 to  
18 eliminate some duplicative reporting  
19 that might have been required under  
20 Subchapter 31.  
21 Also we've addressed  
22 alternative fuels. That is an  
23 improvement that we think is better  
24 for the environment and also is more  
25 reflective of the fuels that are

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1 currently available sources to be  
2 used in their processes today.  
3 And also we have proposed to  
4 revoke the requirements in it for new  
5 pulp mills because we feel that the  
6 federal standards are protective and  
7 we know we would not need those  
8 standards any longer.

9 The opacity issue is one that  
10 we've discussed at length and it is  
11 complex. We are erring on the side  
12 of caution because there may be  
13 unintended consequences from an  
14 outright deletion. If the Council  
15 prefers to modify the definition to  
16 the word continuous or modify in  
17 another manner, then that is an  
18 option. But staff feels that it  
19 would be better addressed as a more  
20 holistic approach in opening  
21 Subchapter 25 and possibly 43 to  
22 address the opacity requirements.

23 Thank you.

24 MR. HAUGHT: So would we  
25 have to wait until a time and open

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1 meeting. The next Board meeting.  
2 MS. BRADLEY: The Board  
3 meeting. Excuse me. Yeah. For the  
4 next February Board meeting.  
5 MR. BRANECKY: And the next  
6 Board meeting is not until July?

7 MS. BRADLEY: June.

8 MS. LODES: So if we  
9 carried this forward to April and in  
10 April addressed it and Subchapter 25  
11 and 43 and did it all as a package  
12 and then it would see the Board in  
13 June?

14 MR. BRANECKY: And not be  
15 effective until July of 2013.

16 MS. BRADLEY: 2013.

17 MS. LODES: 2013.

18 MR. BRANECKY: Unless we  
19 passed it as an emergency?

20 MS. BRADLEY: If we were  
21 able to meet the emergency  
22 stipulations. I would have to  
23 consult legal to see if we could.

24 MS. LODES: Is there a  
25 problem with this not being effective

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1 Subchapter 31 again -- another year  
2 before we could open Subchapter 31 at  
3 the same time as 25 and 43? They  
4 would all have to be -- I mean it  
5 would be kind of a simultaneous  
6 shift. So we're limited -- we  
7 couldn't do anything for a year?

8 MS. BRADLEY: That is  
9 correct.

10 MS. MYERS: Or if we  
11 continued it to the next Council  
12 meeting could you have those rules  
13 opened up to do the clean up and  
14 make it more smooth?

15 MR. HAUGHT: At the next  
16 meeting.

17 MS. BRADLEY: It would --  
18 the next issue would be it would not  
19 be in effect until 2013. We would  
20 meet the -- we would be unable to  
21 meet the deadlines for Notice for a  
22 permanent rulemaking for this  
23 February Council meeting. So we're  
24 pushing it back a year.

25 MR. BRANECKY: Board

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1 until 2013? I mean is there a  
2 reason this has got to be effective  
3 this year versus 2013?

4 MS. BRADLEY: Our current  
5 provisions don't address the issue  
6 that we're experiencing with some  
7 alternative fuels and the sources  
8 being unable to meet the standard.  
9 And the issue for the NAAQS  
10 implementation, I'm not sure --

11 MS. LODES: Well, the  
12 federal rule is more stringent than  
13 this one so it's --

14 MS. BRADLEY: The federal  
15 rule will supersede.

16 MS. LODES: Right. So  
17 that's not a problem.

18 MS. BRADLEY: Without it we  
19 would still have the requirement to  
20 demonstrate compliance with those  
21 short -- with those alternative  
22 standards. It might add some  
23 additional requirements to the  
24 permitting process that if we move  
25 forward would not be required. The

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1 modeling requirements.  
2 MS. LODES: But those are  
3 out there right now anyway?  
4 MS. BRADLEY: They are.  
5 MS. LODES: So we're already  
6 subject to them anyway?  
7 MS. BRADLEY: Yes. That's  
8 correct.  
9 MS. LODES: So that doesn't  
10 change what everybody is already  
11 doing anyway?  
12 MS. BRADLEY: No.  
13 MS. LODES: Okay. That's  
14 what I was just trying to see if  
15 there was a trigger here that  
16 mattered --  
17 MS. BRADLEY: No.  
18 MS. LODES: -- if it  
19 mattered so much that it wasn't worth  
20 just going ahead and cleaning it all  
21 up at once and getting it done right  
22 the first time around?  
23 David, do you have any more --  
24 or Sharon, do one of you all have  
25 more thoughts on the opacity issue?

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1 I guess Eddie has something.  
2 MR. TERRILL: Well, I was  
3 just going to say, before we get off  
4 on this opacity issue again, if we're  
5 going to do that then we might just  
6 keep the rule open for an extended  
7 period of time and clean up the  
8 whole thing. I mean there's some --  
9 if this has not been a problem to  
10 date I'm a little bit, I guess,  
11 confused as to why we would want to  
12 wait a whole year for these other  
13 things to go into effect, which we  
14 believe are substantive good changes,  
15 and come back and fix this in a  
16 year. But if we're going to keep it  
17 open then maybe we need to look at  
18 other things that we probably hadn't  
19 intended to look at and fix that as  
20 well. Because the problem we've got  
21 here when we've got this SO2 rule  
22 open, we're already telling EPA that  
23 we disagree with the way they've done  
24 their NAAQS change, and this just is  
25 something else where we're telling

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1 EPA -- we're drawing attention to  
2 this rule unnecessarily when we're  
3 already not doing what EPA believes  
4 is the proper way to implement their  
5 changes to the NAAQS.  
6 So we just need to think about  
7 all of that because I do think we've  
8 got some good things in here that we  
9 need to move forward on and do we  
10 want to risk all this opacity issue  
11 which I don't know that it's been a  
12 problem. Nobody is going to disagree  
13 that it's antiquated; nobody knows  
14 why it's there and it probably need  
15 to come out but we've got to think  
16 through that and what the  
17 implications are to the other  
18 sections and is it worth it.  
19 I mean it's okay with us  
20 because we're not the ones that are  
21 out there having to implement these  
22 rules and deal with them every day  
23 when we can leave it open and them  
24 come and go into effect in a year  
25 from now. But if we're going to do

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1 that then I want us to take a look  
2 at the whole rule again and see if  
3 there's other things in there and we  
4 may not -- we'll try to get it back  
5 in three months but I can't guarantee  
6 that we will. We'll just have to  
7 see.

8 MS. LODES: Well, my  
9 thought, Eddie, we have pretty much  
10 the whole rule open for several  
11 Council meetings and this opacity  
12 rule keeps coming up so, I guess, I  
13 don't see necessarily the  
14 disadvantage in just cleaning it up.  
15 Do we have -- okay. I know we have  
16 the opacity questions. I actually  
17 have other questions, too. So do we  
18 want to discuss opacity more or do  
19 we want to discuss anything else?

(Comments)

21 MS. LODES: Okay. I have  
22 some questions that are not opacity  
23 related, momentarily and then we can  
24 go back to that other issue.

We've added a definition for

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1 petroleum and natural gas process  
2 facilities. This has got some  
3 discrepancies or doesn't quite flow  
4 with some federal definitions. In it  
5 we don't define what is refined  
6 products, because it reads, means the  
7 facility does engage in converting  
8 crude petroleum and/or natural gas  
9 under a refined products. Petroleum  
10 and natural gas process facilities  
11 include petroleum refineries, natural  
12 gas processing plants, but do not  
13 include petroleum/natural gas  
14 production and transportation.  
15 The intent here I don't think  
16 is to exclude gathering or isn't --  
17 I think gathering should be added in  
18 to the last part. My suggestions  
19 would be we say, process facilities  
20 include petroleum refineries and  
21 natural gas processing plants as  
22 defined in 40 CFR Part 60.631, which  
23 is the definition that I had talked  
24 to Brooks about prior to this. And  
25 the last part say, but do not

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1 include petroleum/natural gas  
2 production, gathering, and  
3 transportation facilities. And then  
4 I think that gets to the intent here  
5 because the gathering station is  
6 different from production or  
7 transportation and is also very  
8 different from a processing plant.  
9 So that is one concern or  
10 clarification I wanted to make there  
11 so it is consistent with federal  
12 definitions elsewhere.  
13 And then on 252:100-31-26(B).  
14 It's on Page 4 of the markups.  
15 We've got where it says the owner or  
16 operator shall install, calibrate,  
17 maintain, and operate an alarm system  
18 that will signal a malfunction for  
19 all thermal devices used to control  
20 H2S emissions from petroleum and  
21 natural gas processing facilities.  
22 Calibrate is a little bit  
23 ambiguous here because there is not  
24 always manufacturers specifications  
25 for how to calibrate some of this

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1 type of device. And so I'm afraid  
2 that's going to open up questions  
3 that weren't intended. And so should  
4 it be shall install and maintain, and  
5 operate an alarm system. I don't  
6 know this -- do we need the  
7 calibration there?  
8 MR. COLLINS: Where are you  
9 at, Laura?  
10 MS. LODES: I'm on Page 4  
11 of the marked -- of the highlighted  
12 markups.  
13 MR. COLLINS: Okay. I see  
14 it. Thank you.  
15 MS. LODES: That's the  
16 easiest place to follow this because  
17 it's so marked up in the other  
18 version. The very last part (B)  
19 where it says, the owner or operator  
20 shall install, calibrate, maintain,  
21 and operate an alarm system. And  
22 there has been some questions about  
23 calibrate. I know we've dealt with  
24 this with some of the permit writers  
25 for natural gas facilities elsewhere

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1 and that's why I want -- you know,  
2 what does calibrate mean right here  
3 because some of the manufacturers for  
4 this type of device don't specify a  
5 calibration technique.  
6 MS. MYERS: It either works  
7 or it doesn't.  
8 MS. LODES: Yes.  
9 (Comment)  
10 MS. LODES: I mean, it's a  
11 flare. There is not a calibration.  
12 You're installing and maintaining an  
13 alarm system and it burns it or it  
14 doesn't burn it. So how are you --  
15 what are you going to do to  
16 calibrate it?  
17 MR. KIRLIN: I don't know  
18 --  
19 MS. LODES: Okay.  
20 MR. KIRLIN: -- that. I  
21 don't have a problem with dropping  
22 that. I don't think that the  
23 enforcement or permitting does.  
24 MS. LODES: Okay. Those  
25 were the two that I had outside of

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1 any opacity issues. So we can go  
2 back to discussion with the Council  
3 on what you guys want to do about  
4 the -- about the opacity section.

5 Honestly I'd like to see -- I  
6 mean if this is the hang-up here is  
7 if we struck a -- personally I'd  
8 like to see opacity just struck here  
9 and then Subchapter 25 opened up and  
10 then clarified in Subchapter 25 and  
11 we do it as a package deal and we do  
12 it in April, would be my personal  
13 preference on how to handle it. I  
14 don't know what anybody else's  
15 thoughts are on the matter.

16 MS. MYERS: Was that the  
17 only rule that would have to be  
18 opened though?

19 MS. LODES: I don't know.

20 MS. BOTCHLET-SMITH: I think  
21 we're considering needing to look at  
22 43 as well.

23 MS. LODES: Okay. And that  
24 would be the other question. I mean  
25 if we did those three parts as a

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1 were having some issues right now?  
2 I thought that's what I heard her  
3 say.

4 MS. LODES: Well, that -- I  
5 think so. Cheryl, the issues right  
6 now, Montelle is asking about with  
7 this rule.

8 MR. CLARK: Did you not say  
9 there -- you are having a few issues  
10 right now that lend some, if not  
11 urgency, to this rule at least some  
12 parity to it?

13 MS. BRADLEY: The current  
14 SO2 standards do not acknowledge an  
15 alternative standard for the use of  
16 an alternative fuel. And we have  
17 some sources that are currently  
18 utilizing the alternative fuel and  
19 they would be unable to meet the  
20 requirement. In absence of that they  
21 would flare the waste gas, so they  
22 would also be emitting the glutens  
23 from the burning of the fuel which  
24 would meet the SO2 standard, plus the  
25 emissions from the flaring of this

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1 package and we did them all and got  
2 them all cleared up at once.

3 MR. COLLINS: I guess I'm a  
4 bit confused about -- did we resolve  
5 whether there is an issue with the  
6 delay or not? I mean I know there  
7 was some dialogue there, but at the  
8 end of the day is there a reason  
9 that we would not want to delay it a  
10 year?

11 MS. LODES: I mean if we  
12 would address it in April it just --  
13 unless we can do it as an emergency,  
14 yes, it's delayed a year. But I  
15 don't -- I didn't understand that  
16 there was an issue with it if we  
17 addressed it in, say, at the April  
18 meeting and just get it clarified.

19 MR. CLARK: Did Cheryl not  
20 say that they were having some issues  
21 right now?

22 MS. BOTCHLET-SMITH: Your  
23 microphone.

24 MR. CLARK: Sorry. I'm  
25 sorry. Did Cheryl not say that they

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1 waste gas. So that is one issue  
2 that we would like to see addressed  
3 here.

4 MS. MYERS: But a flare  
5 doesn't have an opacity monitor on  
6 it, does it?

7 MS. BRADLEY: I mean most  
8 of them have to be --

9 MR. CLARK: In general, is  
10 there any issue for staff with  
11 keeping the rule open for an extended  
12 period of time like this? Does it  
13 cause you any work issues? Is there  
14 any other reason why you don't like  
15 to keep one open? Because we've had  
16 this open now for --

17 MS. LODES: Long time.

18 MR. CLARK: -- longer than  
19 I can remember. I just wondered in  
20 general if that's a problem for you?

21 MS. BRADLEY: It is -- it  
22 means that resources are tied up long  
23 term in working on the same rule  
24 change and there is quite a bit of  
25 work that goes into the formal

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1 proposal of a rule and hoping it can  
2 survive.

3 MR. CLARK: Well, both of  
4 those reasons are sufficient for me  
5 to say that I think we should go  
6 ahead and approve this stuff that's  
7 in this right now. If we want to  
8 reopen it in a year, we can reopen  
9 it in a year.

10 MR. COLLINS: Cheryl, let me  
11 make sure that I understand. So we  
12 have sources that are using  
13 alternative fuel that can't meet the  
14 existing sulfur rule and they're  
15 flaring that gas. And this  
16 correction -- this change to the rule  
17 would correct that issue?

18 MS. BRADLEY: We have both  
19 the circumstances -- well we have a  
20 source that is having difficulty  
21 meeting the standard. They have  
22 utilized the waste gas from their  
23 processes in their boilers and would  
24 not be able to demonstrate at this  
25 time the compliance with the SO2

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1 circumstance where flares would not  
2 be covered under the SO2 rule and in  
3 the absence of a standard with which  
4 they could comply that is technology  
5 based fact, they would be out of  
6 compliance and they might end up  
7 flaring the fuel or the waste gas  
8 and burning additional fuel.

9 MR. COLLINS: Okay. Thank  
10 you.

11 MS. LODES: I have a  
12 question here. Could we strike the  
13 opacity section from here today and  
14 pass this and then in the April  
15 meeting address what would need to be  
16 addressed in Subchapters 27 (sic) and  
17 43 as emergency rules and then it  
18 would all go into effect this year  
19 and we've got it all cleared up at  
20 one time instead of having to keep  
21 dragging this thing on?

22 MS. BRADLEY: There would be  
23 a gap. A gap that results -- if it  
24 goes back in April -- did you say  
25 emergency?

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1 standard.

2 MR. COLLINS: So are they  
3 currently flaring that gas?

4 MS. BRADLEY: No, they are  
5 not.

6 MR. TERRILL: They are just  
7 out of compliance.

8 MS. BRADLEY: They are out  
9 of compliance.

10 MR. TERRILL: Yeah. We're  
11 hoping to get them where they -- we  
12 don't want them to flare. We would  
13 like them to change this rule so  
14 they can continue what they're doing  
15 with it. Because that's their  
16 alternative to flare it, but we don't  
17 think it's a good option.

18 MS. BRADLEY: Mr. Collins,  
19 we recognize that our original rule  
20 was not absolutely clear with regards  
21 to alternative fuels. At the time  
22 that the landfill gases were starting  
23 to be utilized and promoted by EPA  
24 we started to look at the use of  
25 alternative fuels. Now we have a

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1 MS. LODES: I said pass  
2 Subchapter 31, strike opacity today

3 --

4 MS. BRADLEY: Okay.

5 MS. LODES: -- pass  
6 Subchapter 31.

7 MS. BRADLEY: Uh-huh.

8 MS. LODES: And then in  
9 April address what would need to be  
10 addressed in Subchapters 25 and 43 as  
11 emergency rules --

12 MS. BRADLEY: Okay.

13 MS. LODES: -- to close the  
14 gap so that it all gets finalized in  
15 July and it's all effective at one  
16 time and we've done one big round of  
17 clean up and we've gotten this issue  
18 taken care of.

19 I mean if all it is is  
20 addressing in Subchapter 25 that  
21 you've got to have an opacity monitor  
22 out there for greater than 250  
23 mmbtu's per hour, I would think that  
24 this could be done as a more  
25 straightforward clean up to

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1 Subchapter 25. I see this -- I mean  
2 is that a possibility that we could do?  
3 MR. TERRILL: The issue is  
4 going to be whether or not we can  
5 justify that as an emergency given  
6 how they have tighten the --  
7 MS. BRADLEY: Yes.  
8 MS. LODES: Yes.  
9 MR. TERRILL: -- that may  
10 be problematic to get that done. I  
11 don't know. Have we tried to do  
12 that even since they've changed the  
13 rules on what you have to show to  
14 get an emergency attached?  
15 MS. MILLER: I have it  
16 right here. I don't know the answer  
17 to that question. I have it right  
18 here and it says that the rule is  
19 necessary as an emergency to do any  
20 of the following and it sounds like  
21 this would fall under possibly, avoid  
22 violation of federal law or  
23 regulation or other state law. Avoid  
24 serious prejudice to the public  
25 interest as well. So --

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1 MS. BRADLEY: So we --  
2 MS. LODES: So there is a  
3 possibility that we could do it --  
4 do Subchapters 25 and 43 as an  
5 emergency in April and get this all  
6 in this year but at the same time  
7 make everybody happy by clearing up  
8 the opacity part that we've got such  
9 a hang-up with here in getting this  
10 done.  
11 MR. TERRILL: Let me ask  
12 this question. What happens --  
13 because this has not been proposed.  
14 EPA hasn't seen this. What happens  
15 if we send this down, they become  
16 aware of it and they raise an  
17 objection of some sort? I guess we  
18 would fight that battle at some  
19 point.  
20 MR. BRANECKY: We'd have 43  
21 and 25 amended by the time they even  
22 looked at it or moved on it.  
23 MS. LODES: That was going  
24 to be my remark. Since they are  
25 about ten years behind, Eddie, I

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1 think that we could have all of this  
2 taken care of long before they ever  
3 (inaudible) and looked at it.  
4 MR. TERRILL: Well, again,  
5 that's all well and good for the  
6 Council and for us but there is a  
7 whole other regulated community out  
8 there that we have to think about  
9 and the implications. I don't  
10 whether they will or not. I don't  
11 disagree that it's an antiquated  
12 rule. I'm not going to argue that  
13 point. But I'm just saying that  
14 given the fact that we're -- the  
15 position that we've taken relative to  
16 the SO2 standard you've just got to  
17 be prepared that there is an  
18 unintended consequence and I don't  
19 want any blow-back to us because we  
20 did this. You just need to be aware  
21 that if you strike this and we go  
22 down this other path, there could be  
23 other things come up, and if there  
24 are we'll just have to deal with  
25 them. I don't know if there would;

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1 there may not be. There may not be  
2 anything come up, but I don't know  
3 that there won't be either. I just  
4 don't know.  
5 MR. BRANECKY: Well, we're  
6 not -- we're not relaxing any  
7 standard. I mean we're not allowing  
8 any more pollution --  
9 MR. TERRILL: Yeah.  
10 MR. BRANECKY: -- by  
11 striking this. It's just an  
12 antiquated piece of text that has  
13 been in there for 30 years or more.  
14 MS. LODES: But I think --  
15 but I think for opacity in a --  
16 though maybe you're saying anything  
17 that's not covered -- so wouldn't  
18 that -- I mean we have standards of  
19 opacity for Oklahoma regulations.  
20 There's opacity regulations out there  
21 in the various NSPS and NESHAPs, what  
22 would be -- where would there be a  
23 gap, I guess my question would be.  
24 What source would actually be in some  
25 gap here if we struck this out for

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1 opacity?

2 MR. TERRILL: I don't think  
3 we know. I know I don't know.  
4 That's what I'm saying. I just -- I  
5 don't know. There may be now  
6 consequence to this, I'm just telling  
7 you that there could be. And --

8 MS. LODES: Okay. And I  
9 want to understand that. I'm just  
10 trying to think of a way we could  
11 clean this up and do it right at the  
12 same time get it all done this year.  
13 And that's what I'm saying, if we  
14 could pass this and then do the next  
15 one.

16 MS. BOTCHLET-SMITH: I guess  
17 what I'm hearing from Cheryl is  
18 trying to rush through the change  
19 that might or might not have to be  
20 made to 43 and 25 to ensure that  
21 there is not an unintended  
22 consequence by removing this, is not  
23 -- it's of concern. And to have the  
24 time to make sure that everything is  
25 covered.

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1 kind of as proposed and leave that  
2 in there that we would open this up  
3 and address this in those other  
4 subchapters --

5 MS. LODES: Within a year?  
6 MR. HAUGHT: -- at the  
7 soonest possible time?

8 MR. TERRILL: Sure. I mean  
9 why wouldn't we?

10 MR. HAUGHT: Well -- I  
11 don't --

12 MR. TERRILL: Yeah. Yeah.  
13 Absolutely we would.

14 MR. HAUGHT: I mean that's  
15 the deal, because we may can move  
16 this forward if -- if -- I mean  
17 that's the options. I mean try to  
18 strike it and then do these emergency  
19 things or can we get some commitment  
20 to come back and clean this up. We  
21 know what the problem is.

22 MR. TERRILL: Absolutely. I  
23 don't --

24 MS. LODES: One year.

25 MR. TERRILL: -- it will

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1 MS. MYERS: So what if we  
2 carried this forward to April and do  
3 them all three as an emergency  
4 passage in order to meet whatever  
5 federal guidelines.

6 MR. HAUGHT: It's what --  
7 what kind of -- I mean it's obvious  
8 we want this done and I appreciate  
9 -- I mean there are some good things  
10 in this and I think we have an  
11 obligation to look at those good  
12 things and consider that too. I  
13 don't know that rushing this through  
14 -- this opacity issue has been  
15 brought up. This isn't new at this  
16 meeting. So to --

17 MS. MYERS: But it's never  
18 been addressed either.

19 MR. HAUGHT: -- for staff  
20 to have time to look at it, it's  
21 been known that some people had issue  
22 with it from previous meetings.

23 But I guess, Eddie, do we have  
24 any kind of assurance that if we  
25 just go ahead and pass this rule,

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1 just be a year. That's right.  
2 It'll be a year.

3 MR. HAUGHT: I understand,  
4 but we've been living with it for --  
5 for some length of time.

6 MR. TERRILL: And to be  
7 honest with you, I would prefer to  
8 do that, that way we can do it right  
9 and make sure that we don't create a  
10 bigger problem for ourselves and that  
11 way with the good parts of it, we  
12 could move forward on. But  
13 absolutely we would commit to do  
14 that. If nothing else we could go  
15 ahead and get the good things going  
16 but there is no reason why we  
17 wouldn't do that. It shouldn't be  
18 that big of a deal, making the  
19 assumption that we don't run across  
20 something unexpected when we start  
21 looking at the consequences in the  
22 other sections. So we absolutely  
23 would make that commitment.

24 MS. BRADLEY: Mr. Haught, we  
25 could -- actually even before the

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1 rule comes back officially we could  
2 do an informational presentation --  
3 MR. TERRILL: Right.  
4 MS. BRADLEY: -- on the  
5 possible options to the Council so  
6 you could see what we have found,  
7 new information and some of the  
8 options that we were looking at,  
9 before we go through the formal  
10 proposal.  
11 MR. TERRILL: That way maybe  
12 we would only have to do it one time  
13 and you guys kind of already know  
14 what we're going to do. And that  
15 way it doesn't fall off the table  
16 too. And it gets to your issue of  
17 making sure we do address it --  
18 MR. HAUGHT: Keeps it in  
19 front of us.  
20 MR. TERRILL: Right.  
21 MR. BRANECKY: So when is  
22 the earliest you can open it? Is it  
23 a year from when it was first  
24 opened, which would be last October?  
25 Or is it a year from when we pass

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1 it, or the Board passes it or it  
2 becomes law or what?  
3 MS. FINLEY: You're hoping  
4 that I have an answer right now.  
5 MR. BRANECKY: Of course.  
6 MS. FINLEY: As I'm grabbing  
7 the microphone and looking at you.  
8 I have been trying to find  
9 specifically the answer to that  
10 question while you all have been  
11 talking. We think it's from the  
12 time that it was proposed. We don't  
13 know. I'm trying to find it.  
14 MS. BRADLEY: Rob had  
15 mentioned that with the change in the  
16 law it may be upon the time that  
17 it's been actually entered into the  
18 code and a year from the time that  
19 it becomes part of the code. So  
20 we'll need to review that. I think  
21 our previous interpretation was as  
22 long as you had a final rule as your  
23 starting point you could advertise a  
24 proposed change, but there may be a  
25 modification with the recent change

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1 made by the legislature.  
2 MS. LODES: Okay. On that  
3 -- since we're not clear on that, as  
4 part of our motion to pass it can we  
5 add a little rider that says that  
6 this will be reopened at the earliest  
7 possible time to address this  
8 concern? I mean can Council -- the  
9 Council can do that? And that way  
10 -- that way, like I said, it stays  
11 front and center. I mean we've got  
12 an issue here and we want to get it  
13 all cleaned up and that way we know  
14 it's going to get cleaned up.  
15 Eddie?  
16 MR. TERRILL: I don't know  
17 why -- well, we would do that  
18 anyway. I don't know what difference  
19 that would make. You could add that  
20 clause in there but we committed to  
21 do that and obviously we would want  
22 to do it as quickly as we possibly  
23 could just to be -- to get it done.  
24 Does that make sense?  
25 MS. BOTCHLET-SMITH: If you

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1 all are starting to think about  
2 motions, I just -- I have a comment  
3 from the public. Before someone  
4 jumps out and makes a motion --  
5 MS. LODES: Right.  
6 MS. BOTCHLET-SMITH: -- we  
7 want to give them a chance to  
8 comment.  
9 MS. LODES: Yes.  
10 MR. BRANECKY: And that  
11 doesn't preclude you from opening 25  
12 or 43 before a year and start  
13 working on those and get those out  
14 of the way.  
15 MR. TERRILL: That was the  
16 purpose of doing the information, it  
17 will come back to you all, because  
18 we want to do that to see if there  
19 is anything. And maybe there is not  
20 that much to it and we can just come  
21 back and report that.  
22 MS. MYERS: When do you  
23 think you might have that?  
24 MR. TERRILL: It depends on  
25 -- I don't know that we have talked

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1 about what we're bringing to the next  
2 Council meeting so it depends on if  
3 we've got a lot we're bringing then  
4 we may want to wait, but if we don't  
5 -- we can tell you where we are at  
6 the next Council meeting.

7 MS. MYERS: Okay.

8 MS. BOTCHLET-SMITH: Do you  
9 all have any more comments from the  
10 Council or do you want to hear from  
11 the public now?

12 MS. LODES: Yeah. Hear  
13 from the public.

14 MS. BOTCHLET-SMITH: All  
15 right. Kathryn.

16 MS. CRENWELGE: My name is  
17 Kathryn Crenwelge. I'm with the  
18 International Paper Mill in Villant,  
19 Oklahoma and I just want to put for  
20 the record, this has nothing to do  
21 with opacity or any of the other  
22 things that you guys have been  
23 discussing which is all very  
24 important.

25 Under 100-31-15, the very first

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1 MS. CRENWELGE: Okay.

2 MR. KIRLIN: That is --

3 MS. CRENWELGE: Okay. And

4 I would just like to put it on the  
5 record that when this regulation was  
6 formed that the existing kraft pulp  
7 mill in the state of Oklahoma had a  
8 grace period after May 8th, 1989 to  
9 come into compliance with this  
10 regulation. And for the record,  
11 should anyone come back, if that date  
12 is no longer on there, I want it  
13 part of the record that we were  
14 allowed to -- 1989 to come into  
15 compliance. As you know, sometimes  
16 historical reviews are conducted and  
17 it's gone back to the actual  
18 regulation. Thank you.

19 MS. LODES: Thank you for  
20 bringing that up.

21 Brooks, I will ask as a  
22 Council Member, what was the reason  
23 for basically backing this up 17  
24 years? Because the current rule says  
25 after May 8th, 1989 and now we're

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1 sentence of the copy that I'm looking  
2 at which was out on the table,  
3 strikes after May 8th, 1989 and makes  
4 reference to on or before July 1st,  
5 1972. If I understood correctly that  
6 language is going to change, because  
7 you want to just put it at the front  
8 -- the '72 reference. Is that  
9 correct?

10 MR. KIRLIN: Right. The --

11 MS. LODES: No. I think we  
12 took it out of the front and moved  
13 it back.

14 MR. KIRLIN: We moved it  
15 out of the definitions -- Brooks  
16 Kirlin. This is -- we moved it out  
17 of the definition and put it in as  
18 -- we have not suggested any changes  
19 to that proposal today from what is  
20 in the packet. So we didn't intend  
21 to do that.

22 MS. CRENWELGE: So my  
23 question is, is May 8th, 1989 struck?  
24 Proposed to be removed?

25 MR. KIRLIN: Yes.

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1 dropping it back to July 1, 1972.

2 MR. KIRLIN: Right. All  
3 the -- it applied to all existing as  
4 of 1972 --

5 MS. LODES: I think this --  
6 I gather there was only one?

7 MR. KIRLIN: I believe so,  
8 yes. But it was passed sometime  
9 after 1972 and -- but it applied to  
10 the existing and -- or at least it  
11 changed at that point and as she  
12 stated there was -- my understanding  
13 is there was a grace period given to  
14 allow time to come into compliance  
15 with this requirement up until May  
16 8th of 1989, which is gone, so --

17 MS. LODES: Well, I guess,  
18 based on her concern -- and I can  
19 see where she is, you know, if  
20 you've got a historical review, is  
21 there any value in striking that and  
22 going back to '72 or can we just  
23 leave it the way it is, where it  
24 says after May 8th, 1989, so that --  
25 since it's only one plant in question

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1 here, that one plant doesn't have to  
2 worry about arguing this out at some  
3 later date and time. Or explaining  
4 this I should say, to somebody five  
5 years from now.  
6 MR. KIRLIN: I don't know  
7 that I would have a problem with  
8 leaving the 1989 date in there.  
9 Looking at the definition. That's --  
10 I mean that would be fine --  
11 MS. LODES: Why are we  
12 changing it?  
13 MR. KIRLIN: Change it to  
14 after May 8th, 1989, all existing --  
15 all kraft pulp mills --  
16 MS. LODES: I don't  
17 understand -- I guess my question  
18 would be -- I know she's just asking  
19 for it to be entered into the  
20 record. My question is fundamentally  
21 why are we changing it? Because  
22 it's only one facility in question  
23 here, is there a value in changing  
24 this little statement at all?  
25 MS. BRADLEY: The only

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1 value, Chair Lodes, is that we --  
2 it's for historical purposes only.  
3 It doesn't have direct relevance to  
4 determining compliance from this  
5 point forward. We know which source  
6 it was. When it became applicable  
7 is not an issue in determining  
8 compliance now. But if the Council  
9 prefers that we restore it and if  
10 the commenter would like to see it  
11 restored then we can do so.  
12 MS. LODES: Kathryn, I think  
13 that is a yes, you would like to see  
14 it restored?  
15 MS. CREWELGE: Yes. Yes.  
16 That is correct.  
17 (Inaudible comments)  
18 MS. LODES: Okay. Do we  
19 have -- I guess, Beverly, were there  
20 any other comments?  
21 MS. BOTCHLET-SMITH: Did  
22 anyone else from the public wish to  
23 comment on this rule?  
24 Seeing none, back to the  
25 Council for any further questions or

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1 potential motion.  
2 MS. LODES: Now what --  
3 we've had several changes here. I've  
4 proposed some changes. We've got  
5 Kathryn's change about leaving it  
6 basically or she would like to see  
7 just left as is for 31-15, that  
8 first sentence. And then we have  
9 the whole opacity issue. So what  
10 would the Council like to do?  
11 Okay. My changes were for the  
12 definition of petroleum and natural  
13 gas process facility to -- after  
14 natural gas processing plant put  
15 "comma, as defined in 40 CFR Part  
16 60.631" and further in that sentence  
17 put "but do not include petroleum and  
18 natural gas production, gathering,  
19 and transportation facilities". I'm  
20 adding the word "gathering".  
21 And then in 252:100-31-26  
22 (1)(B) striking the word "calibrate",  
23 for my two changes. And then I  
24 guess -- I'll go ahead and include  
25 in mine the recommendation from

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1 Kathryn to leave -- leave the rule  
2 as is where it says after May 8th,  
3 1989 all existing kraft pulp mills  
4 and just leave that whole little  
5 phrase the way it is without that  
6 change being made.  
7 MR. BRANECKY: And DEQ is  
8 okay with all of those? No  
9 concerns?  
10 MR. KIRLIN: The question is  
11 -- I guess what I would have is  
12 since we proposed to strike the  
13 definition of existing facility, move  
14 those -- it's -- I don't know  
15 whether that would be confusing.  
16 Perhaps we could think about changing  
17 -- leaving in -- or stating it as,  
18 "after May 8th, 1989 all kraft pulp  
19 mills that were in being on or  
20 before July 1st, 1972 shall comply  
21 with the following requirements".  
22 MS. MYERS: Okay. Would  
23 you say that one more time, Brooks?  
24 MR. KIRLIN: After May 8th,  
25 1989 -- tell you what, let me put in

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1 -- can I put the any in there? Any  
2 kraft pulp mill that was in being on  
3 or before July 1st, 1972 shall comply  
4 with the following requirements.  
5 MS. LODES: That seems  
6 reasonable to me.  
7 MR. BRANECKY: Yeah, that's  
8 okay.  
9 MS. LODES: Kathryn?  
10 MR. CRENWELGE: Yes.  
11 MS. BOTCHLET-SMITH: Do we  
12 need -- Laura, can we be given the  
13 written changes to Brooks for the  
14 definition change?  
15 MS. LODES: I had given him  
16 the spell dot definition and his  
17 suggestion was actually to put after  
18 natural gas processing plants, to  
19 just put the citation for the  
20 definition instead of spelling out  
21 the lengthy definition, so I had  
22 given him that and that's where the  
23 40 CFR Part 60.631 is.  
24 MS. BOTCHLET-SMITH: I just  
25 wanted to make sure that he had the

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1 language in his --  
2 MS. LODES: Yes.  
3 MS. BOTCHLET-SMITH: --  
4 materials.  
5 MS. LODES: Yes. He does  
6 and like I said that was his -- when  
7 he and I talked that was his  
8 suggestion to just put that in there  
9 as a citation reference to be -- and  
10 that way it's very clear we're  
11 consistent with the federal  
12 definitions.  
13 MR. BRANECKY: I'll try.  
14 I'm going to be --  
15 MS. MYERS: We're not going  
16 to do anything about the smoke  
17 detectors?  
18 MR. BRANECKY: Not at this  
19 time.  
20 MS. LODES: I want somebody  
21 to go put a First Alert out there  
22 but --  
23 MR. BRANECKY: You'd have to  
24 put in the -- change batteries in it  
25 during daylight savings time, too.

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1 I guess I'll attempt to make  
2 the motion.  
3 MS. LODES: Okay.  
4 MR. BRANECKY: I'll need  
5 help to capture all this we've  
6 covered today.  
7 MS. LODES: Okay.  
8 MR. BRANECKY: I propose  
9 that we approve Subchapter 31 with  
10 the amendments as suggested by Madam  
11 Chair here today, with the exception  
12 of the last one that Mr. Kirlin  
13 counter proposed with the new  
14 language pertaining to the date of  
15 1989.  
16 Do I need to read that? Do we  
17 need that into the record? The new  
18 language?  
19 MS. LODES: Laura, does he  
20 need to read that new language into  
21 the record?  
22 MR. BRANECKY: What Brooks  
23 is proposing?  
24 MS. FINLEY: Yeah, I think  
25 we should.

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1 MR. BRANECKY: Counter  
2 proposed? Okay. I'll let him read  
3 that.  
4 MR. KIRLIN: This will be  
5 252:100-31-15, first paragraph would  
6 read:  
7 "After May 8th, 1989, any kraft  
8 pulp mill that was in being on or  
9 before July 1, 1972 shall comply with  
10 the following requirements."  
11 MR. BRANECKY: Okay. And  
12 you've captured the other language  
13 changes as proposed by Madam Chair?  
14 MR. KIRLIN: Yes.  
15 MR. BRANECKY: Okay.  
16 MS. LODES: Do we need to  
17 read my language changes again?  
18 Okay. And to read my --  
19 MS. FINLEY: That way it's  
20 clear.  
21 MS. LODES: Yeah. Okay.  
22 To make it clear under the definition  
23 of petroleum and natural gas process  
24 facility means, "that a facility does  
25 engage in converting crude petroleum

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1 and/or natural gas into refined  
2 products, petroleum and natural gas  
3 process facilities include petroleum  
4 refineries and natural gas processing  
5 plants as defined in 40 CFR Part  
6 60.631 but do not include petroleum  
7 and natural gas production,  
8 gathering, and transportation  
9 facilities."

10 Then on 252:100-31-26(1)(B),  
11 "the owner or operator shall install,  
12 maintain, and operate an alarm system  
13 that will signal a malfunction for  
14 all thermal devices used to control  
15 H2S emissions from petroleum and  
16 natural gas processing facilities  
17 regulated under this subparagraph".

18 We're striking the word, calibrate.  
19 MR. BRANECKY: Okay. And  
20 with the understanding that we will  
21 address the issue of opacity -- I  
22 know we spent a lot of time talking  
23 about that today -- at a later date,  
24 as soon as DEQ is able to bring --  
25 reopen Subchapter 31, address the

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1 MS. MYERS: On a matter of  
2 principal because this has been so  
3 messy; no.

4 MS. BRUCE: Bob Lynch.  
5 DR. LYNCH: Yes.  
6 MS. BRUCE: Laura Lodes.  
7 MS. LODES: Yes.  
8 MS. BRUCE: Motion passed.  
9 MS. BOTCHLET-SMITH: That  
10 concludes the hearing portion of  
11 today's meeting.

12 (Hearing Concluded)

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1 issue of coordinating Subchapter 31,  
2 Subchapter 25, and Subchapter 43.

3 MS. LODES: I have a  
4 motion. Do we have anything else?

5 MR. BRANECKY: Anything  
6 else. Did I get --

7 MS. LODES: I think you got  
8 it. I have a motion; do I have a  
9 second?

10 MR. GAMBLE: Second.

11 MS. LODES: I have a motion  
12 and a second.

13 Myrna, will you please call  
14 roll.

15 MS. BRUCE: David Gamble.

16 MR. GAMBLE: Yes.

17 MS. BRUCE: Gary Collins.

18 MR. COLLINS: Yes.

19 MS. BRUCE: Montelle Clark.

20 MR. CLARK: Yes.

21 MS. BRUCE: David Branecky.

22 MR. BRANECKY: Yes.

23 MS. BRUCE: Jim Haught.

24 MR. HAUGHT: Yes.

25 MS. BRUCE: Sharon Myers.

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1 C E R T I F I C A T E  
2 STATE OF OKLAHOMA )

3 ) ss:  
4 COUNTY OF OKLAHOMA )

5 I, CHRISTY A. MYERS, Certified  
6 Shorthand Reporter in and for the  
7 State of Oklahoma, do hereby certify  
8 that the above meeting is the truth,  
9 the whole truth, and nothing but the  
10 truth; that the foregoing meeting was  
11 taken down in shorthand and  
12 thereafter transcribed by me; that  
13 said meeting was taken on the 18th  
14 day of January, 2012, at Oklahoma  
15 City, Oklahoma; and that I am neither  
16 attorney for, nor relative of any of  
17 said parties, nor otherwise  
18 interested in said action.

19 IN WITNESS WHEREOF, I have  
20 hereunto set my hand and official  
21 seal on this, the 4th day of  
22 February 2012.

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



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# AIR QUALITY COUNCIL

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January 18, 2012

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