

**MINUTES**  
**ENVIRONMENTAL QUALITY BOARD**  
**November 14, 2006**  
**OSU @ Tulsa B. S. Roberts Conference Room**  
**700 North Greenwood**  
**Tulsa, Oklahoma**

Approved by EQB  
February 23, 2007

**Notice of Public Meeting** The Environmental Quality Board convened for a regular meeting at 9:30 a.m. November 14, 2006 in the B. S. Roberts Conference at the OSU-Tulsa Campus, 700 North Greenwood, Tulsa, Oklahoma. This meeting was held in accordance with 25 O.S. Sections 301-314, with notice of the meeting given to the Secretary of State on December 5, 2005 and amended on March 28, 2006 to add the location. The agenda was mailed to interested parties on November 2, 2006 and was posted on November 14, 2006 at this facility and at the Department of Environmental Quality. Mr. Steve Mason, Chair, called the meeting to order. Roll call was taken and a quorum was confirmed.

**MEMBERS PRESENT**

Brita Cantrell  
Mike Cassidy  
Jack Coffman  
Bob Drake  
David Griesel  
Jerry Johnston  
Sandra Rose  
Terri Savage  
Kerry Sublette  
Richard Wuerflein  
Steve Mason

**MEMBERS ABSENT**

Tony Dark  
Jennifer Galvin

**DEQ STAFF PRESENT**

Steve Thompson, Executive Director  
Craig Kennamer, Deputy Executive Director  
Jimmy Givens, General Counsel  
Wendy Caperton, Executive Director's Office  
David Dyke, Administrative Services Division  
Eddie Terrill, Air Quality Division  
Judy Duncan, Customer Service Division  
Gary Collins, Env. Complaints & Local Services  
Scott Thompson, Land Protection Division  
Jon Craig, Water Quality Division  
Ellen Bussert, Administrative Services  
Jamie Fannin, Administrative Services  
Myrna Bruce, Secretary, Board & Councils

**OTHERS PRESENT**

Ellen Phillips, Assistant Attorney General  
Christy Myers, Court Reporter

**The Attendance Sheet is attached as an official part of these Minutes.**

**Approval of Minutes** Mr. Mason called for motion to approve the Minutes of the August 22, 2006 Regular Meeting. Mr. Drake made the motion to approve as presented and Mr. Johnston made the second. Roll call as follows with motion passing.

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Rulemaking – OAC 252:100 Air Quality Division** Mr. David Branecky, Vice-Chair Air Quality Division, advised that the proposed rulemaking would update Subchapters 5, 7, and 9 and add an Appendix P to list all the regulated air pollutants for air quality. The

proposal also clarifies the terms ‘actual emissions’, ‘allowable emissions’, ‘regulated air pollutant for fee calculation’ and ‘regulated air pollutant’. Mr. Mason called for a motion to approve for permanent adoption. Mr. Griesel made motion to approve and Mr. Johnston made the second.

*See transcript pages 7 – 10*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

Mr. Branecky asked for permanent adoption of the proposal which would incorporate by reference a new Part 11 into Subchapter 17. After questions, Mr. Mason called for a motion. Mr. Drake made the motion and Mr. Coffman made the second.

*See transcript pages 10 - 13*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

Mr. Branecky stated that Board’s approval is requested for a change made in Subchapter 5 relating to changing the deadline to April 1 for filing emission inventories. The second change was that unless specifically asked for by the DEQ, industry would no longer be required to submit a reason if there was a 30% change in emissions. Mr. Coffman moved for adoption of these changes and Mr. Griesel made the second.

*See transcript pages 13 - 16*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

Mr. Branecky noted that the final item would add a new Subchapter 2 and 40 and a new Appendix Q; then revoke Subchapter 4 and 41. He also pointed out that the phrase ‘Waste Management Division’ should be corrected to the term ‘Land Protection Division’. Mr. Johnston moved for approval of those changes and Mr. Griesel made the second.

*See transcript pages 16 - 20*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Rulemaking -- OAC 252:4 Rules of Practice and Procedure  
OAC 252:205 Hazardous Waste Management**

Mr. Bob Kennedy, Hazardous Waste Management Advisory Council Vice-Chair, advised that proposed amendments to OAC 252:4-7-51, 4-7-52, and 4-7-53 relate to hazardous waste permitting requirements for the new RCRA Standardized Permit; and that proposed revisions to OAC 252:205-3-1 and 205-3-2 will update the incorporation by reference of the

federal hazardous waste regulations to July 1, 2006, and incorporate later federal amendments relating to management of cathode ray tubes. The proposal will also correct miscellaneous errors in the federal rules. Mr. Kennedy detailed those modifications and asked that they be considered for both permanent and emergency adoption. Staff fielded questions and comments regarding these changes.

Mr. Mason asked Ms. Ellen Phillips, Assistant Attorney General, to remind the Board of the process necessary to adopt rules as an emergency. She advised that there would need to be three votes; the first to find that an emergency exists, to adopt as an emergency, and then to adopt as a permanent rule. Mr. Jon Roberts, Supervisor of the Hazardous Waste Compliance Section, advised that emergency adoption in this case is based on compelling public interest with the standardized permit and it would reduce the burden of paperwork requirements for hazardous waste facilities.

Mr. Bob Drake made a motion for finding of emergency for proposed amendments to OAC 252:205 and Mr. Johnston made the second.

*See transcript pages 20 - 41*

Brita Cantrell	Yes	Sandra Rose	No
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	No
Jerry Johnston	Yes		

Mr. Mason called for motion for emergency adoption of Chapter 205. Mr. Coffman made the motion and Mr. Johnston made the second.

*See transcript pages 41 - 43*

Brita Cantrell	Yes	Sandra Rose	No
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	No
Jerry Johnston	Yes		

Mr. Mason called for motion for permanent adoption of Chapter 205. Mr. Coffman made the motion and Mr. Drake made the second.

*See transcript pages 43 - 44*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

Mr. Mason called for a motion for finding of emergency for Chapter 4 Rules of Practice and Procedure. Mr. Drake made the motion and Mr. Coffman made the second.

*See transcript pages 44 - 45*

Brita Cantrell	Yes	Sandra Rose	No
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	No
Jerry Johnston	Yes		

Mr. Mason called for motion for emergency adoption of Chapter 4. Mr. Johnston made the motion and Mr. Griesel made the second.

*See transcript pages 45 - 46*

Brita Cantrell	Yes	Sandra Rose	No
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	No
Jerry Johnston	Yes		

And the motion for permanent adoption of Chapter 4 was made by Mr. Griesel and Mr. Coffman made the second.

*See transcript pages 47 – 48*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

### **Rulemaking – OAC 252:210 Highway Spill Remediation**

Mr. Bob Kennedy, Hazardous Waste Management Advisory Council Vice-Chair, advised that a new Chapter 210 was designed to implement the requirements of Senate Bill 1938, the Oklahoma Highway Remediation and Cleanup Services Act, passed by the Oklahoma Legislature during the 2006 regular session and effective November 1, 2006. The Act gives the DEQ the authority to license, supervise, govern, and regulate highway remediation and cleanup services and highway remediation and cleanup services operators in the State of Oklahoma, and authorizes the Board to adopt implementing rules. Mr. Kennedy noted that since there is an immediate necessity to have the rules in place, emergency adoption is recommended allowing the rule to be implemented immediately upon the Governor’s approval. He added that the rule would be ‘fine-tuned’ and come before the Board in February for permanent adoption. Following comments and questions fielded by Mr. Steve Thompson and staff, Mr. Mason called for a motion for finding of emergency. Ms. Brita Cantrell made that motion and Mr. Coffman made the second.

*See transcript pages 48 - 68*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

Mr. Mason then called for a motion for emergency adoption of the rule as proposed. Mr. Johnston made the motion and Ms. Cantrell made the second.

*See transcript pages 69 - 70*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Rulemaking -- OAC 252:300 Laboratory Accreditation**

Mr. Brian Duzan, Chair, Laboratory Services Advisory Council advised that proposed changes would implement the DEQ’s Drinking Water Program for accreditation of environmental laboratories and update references to methods used in the current citation. Proposed changes would add a method for the Daphnia Magna Life-Cycle Toxicity Test to the list of approved methodologies and Salmonella testing is added to the General Water Quality Laboratory Microbiology Category since these tests will be required for some OPDES permits. Mr. Mason called for a motion for permanent adoption. Mr. Griesel made the motion and Mr. Johnston made the second.

*See transcript pages 70 - 74*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Stepped out	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Rulemaking - OAC 252:410 Radiation Management**

Mr. Scott Thompson, Director, Land Protection Division advised that most of the rules proposed update the incorporation by reference of federal rules from the Nuclear Regulatory Commission (NRC) regulations to January 1, 2005. He added that other changes of importance pertain to the recognition of specialty boards and the training of Radiation Safety Officers as related to the medical use of radioactive material and those pertaining to the requirements that will increase the security of portable gauges containing radioactive material. These changes are necessary to maintain compatibility with the NRC rules as Oklahoma is required to do under our agreement state status. Another amendment would add a provision that clarifies the regulations incorporated by reference in the NRC regulations adopted by DEQ and would be considered to be adopted by reference under our rules.

The Subchapter 10 changes would bring the list of the NRC regulations reserved for exclusive enforcement by the NRC into compliance with changes made by the NRC as of January 2005. They are reserving some of the enforcement capacity themselves for certain activities.

Also subsection C is revised and subsection D is deleted as they are no longer needed for changes that previously took effect when we became an agreement state. Also in Subchapter 10 and 20 changes in Parts 30, 31, 32, 34, 35, 39, 70, and 71 and in Section 1 of Subchapter 20 correct scrivener's errors that were made in previous versions of the rules; and also make some minor formatting changes to comply with the way the NRC is formatting rules. Hearing no questions or comments, Mr. Mason called for a motion. Mr. Griesel made motion to approve and Mr. Coffman made the second.

*See transcript pages 75 - 78*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Rulemaking -- OAC 252:515 Solid Waste Management**

Mr. Jay Stout, Solid Waste Management Advisory Council Chair, advised that rulemaking adds a new Part 13 to Subchapter 19 to allow for landfill wheel washes according to Senate Bill 1557. Questions were fielded by Mr. Steve Thompson and staff. Mr. Mason called for a motion for permanent adoption. Mr. Johnston made the motion to approve and Mr. Griesel made the second.

*See transcript pages 78 - 84*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Consideration of and Action on the Environmental Quality Report**

Mr. Craig Kennamer, Deputy Executive Director, stated that the Oklahoma Environmental Quality Code requires the DEQ to prepare an “Oklahoma Environmental Quality Report” to outline the DEQ’s annual needs for providing environmental services within its jurisdiction, reflect any new federal mandates, and summarize DEQ-recommended statutory changes. This report must be approved by the Environmental Quality Board and submitted to the Governor, Speaker of the House, and Senate President Pro Tem by January 1<sup>st</sup> of each year. Mr. Kennamer briefly outlined legislative recommendations. Following comments, Mr. Mason called for a motion. The motion for approval was from Mr. Johnston and the second was from Mr. Griesel.

*See transcript pages 94 - 92*

Brita Cantrell	Yes	Sandra Rose	Yes
Mike Cassidy	Yes	Terri Savage	Yes
Mr. Coffman	Yes	Kerry Sublette	Yes
Bob Drake	Yes	Richard Wuerflein	Yes
David Griesel	Yes	Steve Mason	Yes
Jerry Johnston	Yes		

**Executive Director’s Report** Mr. Steve Thompson mentioned rulemaking that allows for electronic signatures would be brought forth at the next Board meeting – provided an update on the distribution of the new tablet PCs to ECLS -- talked about our new videoconferencing capabilities -- noted that he would be one of the keynote speakers the upcoming Brownfields Conference. He also voiced concerns about the struggles that Oklahoma communities continue to have with the public water supply and conveyed that the Oklahoma Water Resources Board is working on a plan to help these communities.

**New Business** None

**Adjournment** The meeting adjourned at 11:40 and the Public Forum followed.

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2 DEPARTMENT OF ENVIRONMENTAL QUALITY

3 STATE OF OKLAHOMA

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8 TRANSCRIPT OF PROCEEDINGS

9 OF THE ENVIRONMENTAL QUALITY BOARD

10 REGULAR MEETING

11 HELD ON NOVEMBER 14, 2006, AT 9:30 A.M.

12 IN TULSA, OKLAHOMA

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21 MYERS REPORTING SERVICE

Christy Myers, CSR

22 P.O. BOX 721532

23 OKLAHOMA CITY, OKLAHOMA 73172-1532  
405-721-2882  
24 c\_myers@cox.net

25

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2 MEMBERS OF THE BOARD

3 BRITA CANTRELL - MEMBER

4 MIKE CASSIDY - MEMBER

5 JACK COFFMAN - MEMBER

6 TONY DARK - MEMBER

7 BOB DRAKE - MEMBER

8 JENNIFER GALVIN - MEMBER

9 DAVID GRIESEL - MEMBER

10 JERRY JOHNSTON - MEMBER

11 STEVE MASON - CHAIR

12 SANDRA ROSE - MEMBER

13 TERRI SAVAGE - MEMBER

14 LARRY SUBLETTE - MEMBER

15 RICHARD WUERFLEIN - MEMBER

16 STAFF MEMBERS

17 STEVE THOMPSON - EXECUTIVE DIRECTOR

18 JIMMY GIVENS - GENERAL COUNSEL

19 SCOTT THOMPSON - LAND PROTECTION

20 GARY COLLINS - ENVIRONMENTAL COMPLAINTS

21

22 JON CRAIG - WATER QUALITY DIVISION

23 ELLEN BUSSART - DEQ

24 JAMIE FANNIN - DEQ

25 MYRNA BRUCE - SECRETARY

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2 ALSO PRESENT

3 ELLEN PHILLIPS - ASSISTANT AG

4 DAVID BRANECKY - AQC

5 MATT PAQUE - ATTORNEY

6 CRAIG KENNAMER - ATTORNEY

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## PROCEEDINGS

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MR. MASON: My name is Steve

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Mason, I m the Chairman of the

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Environmental Quality Board.

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The November 14, 2006 regular

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meeting of the Environmental Quality Board

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has been called according to the Oklahoma

9

Open Meeting Act, Section 311 Title 25 of

10 the Oklahoma Statutes.

11 Notice was filed with the Secretary  
12 of State on December 5, 2005 and amended on  
13 March 28, 2006 to add the location.  
14 Agendas were mailed to interested parties  
15 on November 2, 2006. The Agenda for this  
16 meeting was posted November 13, 2006 at  
17 this facility and at the Department of  
18 Environmental Quality, 707 North Robinson  
19 in Oklahoma City, Oklahoma.

20 Only matters appearing on the first  
21 agenda may be considered. If this meeting  
22 is continued or reconvened we must today  
23 announce the date, time, and place of the  
24 continued meeting and the agenda for such  
25 continuation will remain the same as

5

1 today s agenda.

2 Myrna, let s see if we ve got a  
3 quorum.

4 MS. BRUCE: Good morning.

5 Ms. Cantrell.

6 MS. CANTRELL: Yes.

7 MS. BRUCE: Mr. Cassidy.

8 MR. CASSIDY: Here.

9 MS. BRUCE: Mr. Coffman.

10 MR. COFFMAN: Here.

11 MS. BRUCE: Mr. Drake.

12 MR. DRAKE: Yes.

13 MS. BRUCE: Mr. Griesel.

14 MR. GRIESEL: Yes.

15 MS. BRUCE: Mr. Johnston.

16 MR. JOHNSTON: Yes.

17 MS. BRUCE: Mr. Mason.

18 MR. MASON: Yes.

19 MS. BRUCE: Ms. Rose.

20 MS. ROSE: Yes.

21 MS. BRUCE: Ms. Savage.

22 MS. SAVAGE: Yes.

23 MS. BRUCE: Mr. Sublette.

24 MR. SUBLETTE: Here.

25 MS. BRUCE: Mr. Wuerflein.

1 MR. WUERFLEIN: Here.

2 MS. BRUCE: And absent are

3 Ms. Galvin and Mr. Dark, for now.

4 MR. MASON: Thank you. I think

5 we have a quorum, and thanks everybody for

6 making the effort to be here.

7 The next Agenda Item is Approval of

8 our Minutes from the August 22nd meeting.

9 MR. DRAKE: Move for approval.

10 MR. JOHNSTON: Second.

11 MR. MASON: Is there any

12 discussion?

13 Can we have a vote, please, Myrna.

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Cassidy.

17 MR. CASSIDY: Yes.

18 MS. BRUCE: Mr. Coffman.

19 MR. COFFMAN: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

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1 MS. BRUCE: Mr. Mason.

2 MR. MASON: Yes.

3 MS. BRUCE: Ms. Rose.

4 MS. ROSE: Yes.

5 MS. BRUCE: Ms. Savage.

6 MS. SAVAGE: Yes.

7 MS. BRUCE: Mr. Sublette.

8 MR. SUBLETTE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Motion approved.

12 MR. MASON: Thank you. The next

13 Agenda Item is rulemaking regarding Air

14 Pollution Control.

15 David, if you d introduce yourself,

16 please.

17 MR. BRANECKY: All right. My

18 name is David Branecky, I m Vice-Chair of  
19 the Air Quality Advisory Council.

20 We have several items to ask for  
21 your approval this morning. And I guess  
22 what I d like to ask Mr. Chairman -- or  
23 actually on the Agenda there is four  
24 bulleted items. Do you want to address  
25 each bullet and then vote on each bullet or

8

1 do you want to --

2 MR. MASON: Do you have a  
3 suggestion for us?

4 MR. BRANECKY: I would suggest we  
5 do each bullet as one at a time and then  
6 vote.

7 MR. MASON: I think that s a  
8 wonderful suggestion.

9 MR. BRANECKY: The first item  
10 that I have asking for approval -- we are  
11 asking to update or revise Subchapters 5, 7  
12 and 9 of the OAC 252:100. We felt the need

13 to redefine regulated air pollutant and to  
14 help clarify the definition of regulated  
15 air pollutant, we proposed the adoption of  
16 Appendix P, which actually lists all the  
17 regulated air pollutants for air quality.  
18 In addition, in Subchapters 5, 7 and 9 we  
19 are going to clarify the terms, "actual  
20 emissions", "allowable emissions" and  
21 "regulated air pollutant (for fee  
22 calculation)", which is a little different  
23 than just straight "regulated air  
24 pollutant". And also we re proposing the  
25 definition of "gross particulate matter" to

9

1 replace "total suspended particulates".

2 So we had two hearings in April and  
3 July on these issues and we re asking the  
4 Board to pass this as a permanent rule.

5 I d be happy to answer any  
6 questions.

7 MR. MASON: Questions from the

8 Board or discussion?

9 Questions from the public or  
10 discussion?

11 Is there any sort of motion?

12 MR. GRIESEL: I make a motion to  
13 approve.

14 MR. JOHNSTON: Second.

15 MR. MASON: Motion from David and  
16 a second from Jerry. Any discussion? Can  
17 we have a vote, please.

18 MS. BRUCE: Ms. Cantrell.

19 MS. CANTRELL: Yes.

20 MS. BRUCE: Mr. Cassidy.

21 MR. CASSIDY: Yes.

22 MS. BRUCE: Mr. Coffman.

23 MR. COFFMAN: Yes.

24 MS. BRUCE: Mr. Drake.

25 MR. DRAKE: Yes.

10

1 MS. BRUCE: Mr. Griesel.

2 MR. GRIESEL: Yes.

3 MS. BRUCE: Mr. Johnston.  
4 MR. JOHNSTON: Yes.  
5 MS. BRUCE: Mr. Mason.  
6 MR. MASON: Yes.  
7 MS. BRUCE: Ms. Rose.  
8 MS. ROSE: Yes.  
9 MS. BRUCE: Ms. Savage.  
10 MS. SAVAGE: Yes.  
11 MS. BRUCE: Mr. Sublette.  
12 MR. SUBLETTE: Yes.  
13 MS. BRUCE: Mr. Wuerflein.  
14 MR. WUERFLEIN: Yes.  
15 MS. BRUCE: Motion passed.  
16 MR. BRANECKY: Next item, we are  
17 proposing to amend Subchapter 17,  
18 Incinerators, by addition of a new Part 11.  
19 Federal -- Other Solid Waste Incinerator  
20 requirements, which are contained in 40 CFR  
21 Part 60, Subparts EEEE and FFFF were  
22 incorporating that federal rule into the  
23 state rule and that is the addition of Part  
24 11 of Subchapter 17.  
25 So it s quite extensive, but like I

1 said again, it s just an incorporation of  
2 the federal requirements into the state  
3 rule. It will affect only very small  
4 municipal waste incinerators, those that  
5 incinerate less than 35 tons a day, and  
6 also institutional waste incineration  
7 units.

8 I d be happy to answer any questions  
9 on Subchapter 17 -- or Part 11, Subchapter  
10 17. And we re asking for permanent  
11 adoption.

12 MR. MASON: Any questions?

13 MR. COFFMAN: Yeah, question. On  
14 those, it said there is some grand fathered  
15 units. Do federal regulations grandfather  
16 units that were built before a certain  
17 time?

18 MR. BRANECKY: Are there  
19 regulations that apply to those units?

20 MR. COFFMAN: Uh-huh.

21 MR. BRANECKY: Yes, I believe so.

22 Yes. Yes.

23 MR. COFFMAN: Okay. Thanks.

24 MR. MASON: Any questions from

25 the public, or comments from the Board?

12

1 MR. DRAKE: Move approval.

2 MR. COFFMAN: Second.

3 MR. MASON: We have a Motion from

4 Bob and a second from Jack. Any

5 discussion?

6 May we have a vote, please.

7 MS. BRUCE: Ms. Cantrell.

8 MS. CANTRELL: Yes.

9 MS. BRUCE: Mr. Cassidy.

10 MR. CASSIDY: Yes.

11 MS. BRUCE: Mr. Coffman.

12 MR. COFFMAN: Yes.

13 MS. BRUCE: Mr. Drake.

14 MR. DRAKE: Yes.

15 MS. BRUCE: Mr. Griesel.

16 MR. GRIESEL: Yes.  
17 MS. BRUCE: Mr. Johnston.  
18 MR. JOHNSTON: Yes.  
19 MS. BRUCE: Mr. Mason.  
20 MR. MASON: Yes.  
21 MS. BRUCE: Ms. Rose.  
22 MS. ROSE: Yes.  
23 MS. BRUCE: Ms. Savage.  
24 MS. SAVAGE: Yes.  
25 MS. BRUCE: Mr. Sublette.

13

1  
2 MR. SUBLETTE: Yes.  
3 MS. BRUCE: Mr. Wuerflein.  
4 MR. WUERFLEIN: Yes.  
5 MS. BRUCE: Motion passed.  
6 MR. BRANECKY: All right. Next  
7 item, we re asking for the Board s approval  
8 on some changes to Subchapter -- our next  
9 item we re asking the Board for approval  
10 for changes to Subchapter 5, which is the

11 registration and emission inventory and  
12 annual operating fee subchapter.  
13       The few changes that we re asking  
14 for, industry approached the Division and  
15 asked that the deadline for filing emission  
16 inventories, which industry does every  
17 year, asked that we changed from March 1st  
18 to April 1st. And the reason for that was  
19 that a lot of times -- most of the time it  
20 takes at least two or three months before  
21 industry gets the previous years data  
22 quality assured and gets it ready to go to  
23 DEQ.

24       So the way it was originally written  
25 -- most of time industry was asking for an

14

1 extension. March 1st came, they couldn t  
2 meet the deadline, they d ask for an  
3 extension, DEQ would grant the extension.

4       So to help alleviate some of that,  
5 we just moved the deadline from March 1st

6 to April 1st. There is still an option for  
7 an extension, if requested, but the April  
8 1st deadline should afford industry  
9 sufficient time to get the emission  
10 inventories in without asking for an  
11 extension.

12 The next -- the other change was  
13 that any time there s a 30 percent change  
14 in emission from one year to the next, the  
15 industry was required to submit a reason  
16 for that change, automatically. Well, we  
17 changed it to they will have to submit a  
18 reason for the change if DEQ asks for it  
19 rather than just have it automatically  
20 filed at 30 -- that s the reason for the 30  
21 percent change.

22 So those are the two changes we re  
23 asking for. We re asking for change -- or  
24 adoption as a permanent rule.

25 I d be happy to answer any

1 questions.

2 MR. MASON: In my packet, I m  
3 looking at the fourth item which is  
4 Subchapter 5, not the third item, which is  
5 what this discussion is about.

6 MR. BRANECKY: I m sorry. Did I  
7 get it out of line?

8 MR. MASON: No, you re perfect.  
9 Just as long as we know we re all on the  
10 same page.

11 MR. BRANECKY: Okay.

12 MR. MASON: Any questions from  
13 the Board?

14 Questions or comments from the  
15 public?

16 What s the pleasure of the Board?

17 MR. COFFMAN: Move for adoption.

18 MR. GRIESEL: Second.

19 MR. MASON: Jack moves for  
20 adoption, David seconds. Any discussion  
21 from the Board?

22 Myrna, may we vote, please.

23 MS. BRUCE: Ms. Cantrell.

24 MS. CANTRELL: Yes.

25 MS. BRUCE: Mr. Cassidy.

16

1

2 MR. CASSIDY: Yes.

3 MS. BRUCE: Mr. Coffman.

4 MR. COFFMAN: Yes.

5 MS. BRUCE: Mr. Drake.

6 MR. DRAKE: Yes.

7 MS. BRUCE: Mr. Griesel.

8 MR. GRIESEL: Yes.

9 MS. BRUCE: Mr. Johnston.

10 MR. JOHNSTON: Yes.

11 MS. BRUCE: Mr. Mason.

12 MR. MASON: Yes.

13 MS. BRUCE: Ms. Rose.

14 MS. ROSE: Yes.

15 MS. BRUCE: Ms. Savage.

16 MS. SAVAGE: Yes.

17 MS. BRUCE: Mr. Sublette.

18 MR. SUBLETTE: Yes.

19 MS. BRUCE: Mr. Wuerflein.  
20 MR. WUERFLEIN: Yes.  
21 MS. BRUCE: Motion passed.  
22 MR. BRANECKY: All right. The  
23 final item we re asking for approval for  
24 today are some changes to -- actually, a  
25 new Subchapter 2, a revocation of

17

1 Subchapter 4, and some changes to 40 -- a  
2 new Subchapter 40 and a revocation of 41.  
3 I think that s it.  
4 Basically, what we re asking for  
5 today, we felt a need to clarify  
6 incorporation by references. There s  
7 several incorporation by reference dates  
8 and in order to make sure that they all are  
9 in the rule and all are understandable, we  
10 created a new Subchapter 2 and an  
11 associated Appendix O. Appendix O lists  
12 all the incorporation by references. Not  
13 Appendix O, Appendix Q. I m sorry.

14 In doing that we needed to revoke  
15 Subchapter 41 because of the redundancy,  
16 but there was one portion of 41, 41-16,  
17 that we moved over into a new Subchapter  
18 40. And this was all done because of the  
19 new Subchapter 2, incorporation by  
20 reference.

21 One thing that I do need to point  
22 out, in your packet on Subchapter 40, 40-5,  
23 the last sentence -- it s 40-5(1) -- it s  
24 actually 40-5(4), it talks about the  
25 Oklahoma Department of Environmental

18

1 Quality Waste Management Division, there is  
2 no such division. That was an error in the  
3 printing of the rule that went to you.  
4 What the Council passed was Oklahoma  
5 Department of Environmental Quality, Land  
6 Protection Division.

7 So we passed the right rule, just in  
8 the process of preparing the packet somehow

9 an old file got copied over and Waste

10 Management Division is in your packet.

11 So with that, I'd be happy to answer

12 any questions. We're asking, again, for

13 adoption under permanent rule.

14 MR. MASON: Any questions from

15 the Board?

16 MR. COFFMAN: Do we need to

17 correct that language in this packet?

18 MR. MASON: I would think that

19 probably part of the Motion would be to

20 make sure that it says Land Protection

21 Division. Yes, sir.

22 The asbestos rule, that's identical

23 to what we eliminated?

24 MR. BRANECKY: Yeah. The

25 asbestos was in 41, we moved it into a new

19

1 Subchapter 40 and did away with 41

2 altogether.

3 MR. MASON: More questions?

4 MR. MASON: Questions from the public?

5 Comments?

6 MR. JOHNSTON: Move to approve.

7 MR. MASON: Motion from Jerry.

8 MR. GRIESEL: I'll second.

9 MR. MASON: Second from David.

10 As Jack suggested I assume that includes

11 Land Protection?

12 MR. BRANECKY: Yes.

13 MR. MASON: Any discussion from  
14 the Board?

15 Can we vote, please.

16 MS. BRUCE: Ms. Cantrell.

17 MS. CANTRELL: Yes.

18 MS. BRUCE: Mr. Cassidy.

19 MR. CASSIDY: Yes.

20 MS. BRUCE: Mr. Coffman.

21 MR. COFFMAN: Yes.

22 MS. BRUCE: Mr. Drake.

23 MR. DRAKE: Yes.

24 MS. BRUCE: Mr. Griesel.

25 MR. GRIESEL: Yes.

1 MS. BRUCE: Mr. Johnston.

2 MR. JOHNSTON: Yes.

3 MS. BRUCE: Mr. Mason.

4 MR. MASON: Yes.

5 MS. BRUCE: Ms. Rose.

6 MS. ROSE: Yes.

7 MS. BRUCE: Ms. Savage.

8 MS. SAVAGE: Yes.

9 MS. BRUCE: Mr. Sublette.

10 MR. SUBLETTE: Yes.

11 MS. BRUCE: Mr. Wuerflein.

12 MR. WUERFLEIN: Yes.

13 MS. BRUCE: Motion passed.

14 MR. MASON: David, thank you.

15 Thanks for all your effort.

16 The next item is rulemaking

17 regarding Hazardous Waste Management. I

18 think we have a presentation.

19 MR. KENNEDY: Good morning. My

20 name is Bob Kennedy, I am now the Chair of

21 the Hazardous Waste Management Advisory

22 Council.

23 With respect to our two bullet  
24 items, just as you wanted to go bullet by  
25 bullet, we re just going to reverse the

21

1 order, if you will, because if the second  
2 bullet item is not approved then the first  
3 bullet item won t apply.

4 Today we re asking the Board to  
5 consider two rules: Modifications for  
6 DEQ s hazardous waste program; in addition  
7 we re asking the Board to adopt these  
8 revisions as both emergency and permanent.

9 As you know, DEQ is authorized by  
10 EPA to manage the federal hazardous waste  
11 program in Oklahoma. An integral part of  
12 that authorization is (inaudible).  
13 Oklahoma s program is equivalent to the  
14 federal program and DEQ insures this  
15 equivalency by incorporating by reference  
16 the federal hazardous waste regulations

17 found in 40 CFR.

18       The revisions to Chapter 4 and 205,  
19 that are before you today, are designed to  
20 accomplish three things. First, they  
21 incorporate by reference the federal  
22 hazardous waste regulations found in 40 CFR  
23 Part 124 and 260 through 279 as they  
24 existed on July 1, 2006, which includes  
25 provisions for RCRA standardized permit and

22

1 reductions in the paperwork burden required  
2 of the regulated community.

3       Secondly, they incorporate an  
4 amendment of 40 CFR published after July 1,  
5 2006, which makes several clerical  
6 corrections to the federal regulations but  
7 do not impose any new regulatory  
8 requirements.

9       And finally, to incorporate a second  
10 amendment to 40 CFR published after July 1,  
11 2006. That will be beneficial to the

12 regulated community because it reduces the  
13 regulatory requirements for the management  
14 of cathode ray tubes (inaudible) rather  
15 than disposable. In order to incorporate  
16 the federal rule by reference DEQ must  
17 identify exactly which federal rules are  
18 being adopted and this is done through  
19 revisions to OAC 252:203 -- 205, excuse me,  
20 -3-1 and 3-2.

21       The 3-1, the reference -- 40 CFR  
22 data is being revised from July 1, 2005 to  
23 July 1, 2006, the most recently published  
24 set of regulations. In addition, two new  
25 paragraphs are being added to insure the

23

1 final rules for the clerical corrections in  
2 the cathode ray tube requirements are also  
3 adopted at this time. This is necessary  
4 because those two revisions were published  
5 in the federal register after the July 1,  
6 2006 date. So in order to be included --

7 they re separate items here.

8       OAC 252:205-3-2 is the section where  
9 all federal rules being adopted are  
10 identified. I d like to briefly discuss  
11 each of the important 40 CFR revisions that  
12 are being incorporated by reference.

13       One important 40 CFR revision  
14 contained in July 1, 2006 addition will  
15 affect all facilities in Oklahoma that  
16 generate, transport, treat, store, or  
17 dispose of hazardous waste under the  
18 Resource Conservation Recovery Act and  
19 Burden Reduction Initiative. I m not even  
20 sure how I would pronounce that acronym.

21       EPA promulgated changes to federal  
22 hazardous waste regulations to reduce the  
23 paperwork burden required of the regulatory  
24 community. These primarily include  
25 reducing the time records must be kept at

24

1 TSD facilities, operational methods for

2 complying with safety and training and  
3 contingency plans, reduce inspection  
4 requirements for certain types of hazardous  
5 waste management units and reduce  
6 recording.

7         While reducing the paperwork  
8 requirements these revised regulations have  
9 no practical impact on the many protections  
10 that have been established for the  
11 protection of human health and the  
12 environment.

13         The next one is the standardized  
14 permit. The most significant federal rule  
15 implements a new standardized permit.  
16 Fully implementing its provisions requires  
17 modifications to both DEQ s hazardous waste  
18 rules in Chapter 205 and the DEQ s  
19 permitting rules in Chapter 4.

20         The standardized permit is designed  
21 to streamline --

22             MR. MASON: Excuse me.

23             MR. KENNEDY: Yes?

24             MR. MASON: Have we left 205 and

25 are we going into 4 now? Or are we still

25

1 in 205?

2 MR. KENNEDY: Well, we re going  
3 to vote on it separately, but if I could do  
4 the presentation for both of them because  
5 they kind of go in and out of each other.

6 MR. MASON: Okay. Perfect.

7 MR. KENNEDY: The standardized  
8 permit is designed as a streamline type of  
9 permit for facilities that wish to do very  
10 narrow types of waste management. They are  
11 storing or non thermally treating hazardous  
12 waste, generated on-site or storing or non  
13 thermally treating hazardous waste  
14 generated from off-site but the generating  
15 facility is under the same ownership of the  
16 facility for the standardized permit. The  
17 standardized permit is not available for  
18 commercial hazardous waste disposal  
19 facilities but appear to be directed

20 towards generator facilities that wish to  
21 store hazardous waste beyond 90 days or  
22 wish to perform non-thermal treatment such  
23 as neutralization, precipitation, chrome  
24 reduction filtering, stabilization and so  
25 on.

26

1           Because DEQ staff believes some of  
2 the language in the federal register notice  
3 was contradictory as to what facilities  
4 were eligible for the standardized permit,  
5 staff felt that Paragraphs 1, 2, and 3  
6 should be included with Part 267. And as  
7 you ll see on there with addition of the  
8 new Part 267 we re just clarifying in there  
9 as to who is being be regulated.

10           In 205-3-2, is to help clarify which  
11 facilities are eligible for the permit. In  
12 addition to the federal permitting process  
13 requirements, anyone seeking a standardized  
14 permit will also be required to follow the

15 requirement of the Oklahoma Uniform  
16 Environmental Permitting Act. Therefore,  
17 certain portions of DEQ's permitting rules  
18 in Chapter 4 must also be revised to  
19 include provisions for the standardized  
20 permits. And those revisions are in this  
21 first agenda bullet item in 252:4-7-51, 52,  
22 and 53.

23       In order to obtain a standardized  
24 permit, the permittee must hold a public  
25 meeting prior to submitting the permit

27

1 application to the DEQ. The application  
2 itself must include a RCRA Part A  
3 information as well as various other types  
4 of documents. As part of the application  
5 package, the permittee must also certify  
6 that the facility records contain much of  
7 the same information as included in the  
8 Part B application, but none of that  
9 information is submitted to the DEQ for

10 review.

11       With respect to permit fees, while  
12 the standardized permit is more limited in  
13 scope than a full RCRA permit, it is still  
14 subject to Oklahoma Statutory Permit Fees.  
15 Therefore, any facility seeking a  
16 standardized permit will be required to  
17 remit permit fees that include a \$5,000  
18 minimum application fee plus additional  
19 fees based on the type of regulated units  
20 contained in their permit and a minimum  
21 \$20,000 per year monitoring fee. And that  
22 may be the reason to date that DEQ has not  
23 had any inquiries from facilities  
24 interested in utilizing the standardized  
25 permit.

28

1       So it is a fairly -- has the same  
2 statutory permit fees even though it is a  
3 much more narrow in scope type of permit.

4       A third 40 CFR revision promulgated

5 by EPA after July 1, 2006, merely corrected  
6 errors in its hazardous waste and used oil  
7 regulations resulting with printing  
8 omissions, typographical errors,  
9 misspellings, citations to paragraphs and  
10 other references that have been deleted or  
11 moved to new locations without correcting  
12 the citations and similar mistakes. This  
13 does not create any new regulatory  
14 requirements.

15       Regarding the Cathode Ray Tubes, is  
16 the fourth significant 40 CFR revision, DEQ  
17 proposing to adopt was promulgated by EPA  
18 after July 1, 2006. The revision removes  
19 Cathode Ray Tubes from the definition of  
20 solid waste, but they are destined for  
21 recycling and are otherwise managed in  
22 accordance with the new rules.

23       The purpose of the reduced  
24 regulatory requirements is to encourage  
25 recycling of CRT s while maintaining

1 environmental protection. The EPA  
2 effective date on the final rule is January  
3 29th of 2007.

4 So because the incorporation by  
5 reference is necessary to ensure DEQ s  
6 Hazardous Waste Program remains equivalent  
7 to the federal program and to ensure  
8 Oklahoma, facilities can receive immediate  
9 benefit from the reduced regulatory  
10 requirements implemented with the burden  
11 reduction rule, the standardized permit,  
12 and the CRT management rule, the Council  
13 voted unanimously to approve the Chapter 4  
14 and Chapter 205 revisions both as emergency  
15 and permanent and recommends that the Board  
16 does likewise.

17 Any questions?

18 MR. MASON: Questions from the  
19 Board?

20 MR. DRAKE: I don t know really  
21 which one I m questioning, but I m going to  
22 do this one because that s the one I can

23 understand the best -- I can understand  
24 this one by far the best. The increase --  
25 MR. KENNEDY: You have to hit

30

1 that again until the light comes on there.

2 There you go.

3 MR. DRAKE: This is very

4 complicated up here.

5 MR. KENNEDY: It was for us too

6 in October when they introduced these new

7 microphones.

8 MR. DRAKE: I noticed -- the

9 \$10,000 will put quite a burden on a lot of

10 the smaller --

11 MR. KENNEDY: It's \$20,000.

12 We're not on the one that you're probably

13 wanting to be talking about.

14 MR. DRAKE: That's the one I want

15 to talk about. I can understand -- the

16 increase in fees, I can understand that one

17 a lot better than this one. So, I'll pass.

18 Sorry about that.

19 Which one are we on?

20 MR. KENNEDY: We're on 205.

21 MR. DRAKE: Thank you all.

22 MR. MASON: Other questions from

23 the Board?

24 I've got a question. So this new

25 standardized permit -- then if I go into

31

1 our process rules, does it tell me if it's

2 Tier I, Tier II, or Tier III?

3 MR. ROBERTS: Yes. It's a --

4 MR. KENNEDY: Come on down here.

5 MR. MASON: Jon, if you'll

6 introduce yourself, please.

7 MR. ROBERTS: My name is Jon

8 Roberts, I'm the supervisor for the

9 Hazardous Waste Compliance Section of DEQ.

10 The standardized permit is subject

11 to DEQ's Tier rules. It will be a Tier II

12 permit. It's not a Tier III because one of

13 the provisions that EPA put with the  
14 standardized permit is that there is no --  
15 or there is no public input until the  
16 permit is actually ready to be issued. So  
17 that drops it down to a Tier II under our  
18 Tier III permitting rules. There is a  
19 public meeting before -- I m not just 100  
20 percent familiar with the Tier rules but  
21 there is a public meeting that has to occur  
22 before the permit is actually issued.  
23 Under the standardized permitting rules  
24 there is a public meeting that the  
25 facility, wanting to have the permit, has

32

1 with the public that DEQ is not involved  
2 in. That s just an informational-type  
3 public meeting.

4 MR. MASON: So does this need to  
5 be added in your list of Tier II permits or  
6 is it clear in your rules?

7 MR. ROBERTS: That s what the

8 amendments to Chapter 4 is doing.

9 MR. MASON: Okay.

10 MR. THOMPSON: So, as I  
11 understand it, is this the same thing, Jon,  
12 as a general permit in which the  
13 standardized permit goes through the Tier  
14 II process and then application under that  
15 general or standardized permit is something  
16 less than that, or does each individual  
17 facility have to go through Tier II  
18 permitting process?

19 MR. ROBERTS: Each individual  
20 facility that wants to have the permit  
21 would have to go through their own  
22 permitting process.

23 MR. THOMPSON: Thank you.

24 MR. MASON: Then my second  
25 question is, where does it say that a

33

1 commercial facility can't apply for this

2 type of permit?

3 MR. ROBERTS: That is -- it  
4 doesn't say it in the rules, specifically,  
5 but it's clear -- or relatively clear when  
6 you read the preamble to the final rule  
7 that it is not open to commercial TSD  
8 facilities.

9 MR. MASON: And for those of us  
10 that don't read the preamble, is it clear  
11 enough in our rules?

12 MR. ROBERTS: That was part of  
13 the reason we wanted to add the  
14 clarifications to the Part 267,  
15 incorporation in 205-3-2. I believe there  
16 were four paragraphs under there that  
17 describe what types of facilities are  
18 eligible to receive the standardized  
19 permit. And that was our attempt to try to  
20 clarify for sure what facilities would be  
21 eligible.

22 MR. MASON: Okay. Thanks.

23 Any questions from the Board?

24 Questions from the public?

25 Before we make a motion, I think

1 Ellen is going to explain to us how we do  
2 this correctly. There is a process with  
3 the emergencies.

4 MS. PHILLIPS: Because these are  
5 emergency rules, the Board will need to  
6 take a vote on the emergency need for the  
7 rules. You'll need to make a finding as to  
8 the emergency, and vote. And you need to  
9 make a vote approving the emergency rule,  
10 itself. They've also submitted permanent  
11 rules, so there will be a third vote on the  
12 rules for permanent rulemaking.

13 So we're going to have three votes.  
14 One finding that an emergency exists under  
15 the Administrative Procedures Act, and  
16 that's either an imminent peril exists to  
17 the preservation of public health, safety,  
18 or welfare, or there is a compelling public  
19 interest necessitating these rules. Then  
20 you're going to vote on an emergency

21 rulemaking, and then you will vote on

22 permanent rulemaking.

23 MR. JOHNSTON: This will be on

24 205 and 204 or 204 --

25 MS. PHILLIPS: I believe both of

35

1 them are submitted as emergencies and

2 permanents.

3 MR. JOHNSTON: We re going to

4 vote for them together? I thought we

5 started out --

6 MS. PHILLIPS: You need to vote

7 separately. It appears to me that they

8 were submitted as separate rulemaking.

9 MR. JOHNSTON: And we ll do one

10 and we need three votes and then we do two

11 and we need three votes?

12 MS. PHILLIPS: Yes.

13 Any questions?

14 MS. SAVAGE: Has the emergency

15 need been explained to us? Has the need

16 for the emergency been explained? In other  
17 words, if we do not pass this, what will  
18 happen?

19 MR. MASON: I bet we need to have  
20 that explained to us, please, Bob.

21 MR. ROBERTS: The reason we re  
22 asking for the emergency is based on the  
23 compelling public interest with the  
24 standardized permit that the facilities can  
25 obtain if they want to. Also, the burden

36

1 reduction requirements would reduce the  
2 paperwork requirements for hazardous waste  
3 facilities. And then also the CRT  
4 management regulations, which are reduced  
5 regulations regarding CRT s if they are  
6 managed in accordance with the rules. We  
7 feel that by adopting those by emergency  
8 then facilities in Oklahoma can immediately  
9 take advantage of those reduced  
10 requirements. Without the emergency

11 provision then they would not be able to  
12 take advantage of those requirements until  
13 the rules become final sometime in mid-  
14 June.

15         So we re just asking for the  
16 emergency so that --

17         MS. SAVAGE: To comply with  
18 federal?         MR. ROBERTS: -- as soon  
19 as the Governor signs off on the rules,  
20 then they ll be in effect and the  
21 facilities can immediately start taking  
22 advantage of those reduced regulatory  
23 burdens.

24         MS. SAVAGE: And this is to  
25 comply with federal -- with federal rules;

37

1 is that correct?

2         MR. ROBERTS: Yes. All three of  
3 those are incorporated.

4         MS. SAVAGE: That would bring us  
5 in line with federal rules?

6 MR. ROBERTS: Yes.

7 MR. JOHNSTON: Mr. Chairman?

8 MR. MASON: Yes?

9 MR. JOHNSTON: We re voting on  
10 205 and you re going to go back and get to  
11 Bob s question in 204 about the additional  
12 increase in the fees?

13 MR. MASON: The additional  
14 increase in fees, that s the next agenda  
15 item. We re not talking about fees right  
16 now.

17 MR. JOHNSTON: Okay.

18 MR. MASON: I think we have two  
19 items in front of us, what I m going to  
20 call Chapter 205 and Chapter 4. And the  
21 fees, I believe, are in the next discussion  
22 item about highway spill remediation.

23 MR. KENNEDY: I also spoke of  
24 fees and that was the statutory  
25 requirements under the standardized permit

1 being \$5,000 and a \$20,000 monitoring fee.  
2 So they will apply to a standardized permit  
3 but I think when the word fee came out,  
4 people are projecting our next agenda item  
5 which will be the 210 rules for the  
6 highway.

7 MR. JOHNSTON: I m confused like  
8 Bob. I thought that was a part (inaudible)  
9 of the \$25,000.

10 MR. MASON: I would like to  
11 pursue Terri s question for a moment a  
12 little further with you.

13 MR. ROBERTS: Sure.

14 MR. MASON: Every rule we ve  
15 passed, if we made it an emergency we could  
16 argue it, helps people, whether it s in  
17 air, water, land protection. So, I m  
18 struggling why this rule particularly needs  
19 to be an emergency versus all of the rules  
20 we pass.

21 MR. ROBERTS: Again, it just has  
22 to do with the -- there s three benefits to  
23 the regulated community that they can take

24 advantage of immediately having to do with  
25 standardize permit. If anybody wanted to

39

1 the burden in reduction of paperwork  
2 requirements would be, in some cases,  
3 drastically lessened by -- once they are  
4 adopted. And also the CRT rules, like I  
5 say, is an ongoing problem with a lot of  
6 facilities what to do with their CRT s and  
7 we feel if they can take advantage of these  
8 reduced regulatory requirements immediately  
9 that would provide a substantial benefit to  
10 them.

11 MR. MASON: If these are only  
12 passed as permanent does it effect your  
13 ability to do your jobs as the DEQ?

14 MR. ROBERTS: No.

15 MR. MASON: Okay.

16 Other questions from the Board?

17 Public? Questions, comments?

18 So, what do you guys want to do?

19 MR. DRAKE: Mr. Chairman, I m  
20 going to make the Motion to approve this  
21 because I have great trust in our Council  
22 system and our staff. The public might be  
23 a little bit confused since some of us  
24 admitted we were, but I do have great  
25 confidence in the manner in which we come

40

1 to these rule changes.

2 So, with that, I will make a motion  
3 to approve the rules and apply the  
4 emergency.

5 MR. MASON: Okay. So the first  
6 motion you re going to make is finding an  
7 emergency? Then I guess we re doing 205?

8 MR. DRAKE: Then I will make the  
9 first motion to find an emergency.

10 MR. MASON: On 205?

11 MR. ROBERTS: On 205.

12 MR. JOHNSTON: Second. Same  
13 reason.

14 MR. DRAKE: Thanks, Jerry.  
15 MR. MASON: We will find an  
16 emergency on 205. Is there any discussion  
17 from the Board?  
18 Can we have a vote, please.  
19 MS. BRUCE: Ms. Cantrell.  
20 MS. CANTRELL: Yes.  
21 MS. BRUCE: Mr. Cassidy.  
22 MR. CASSIDY: Yes.  
23 MS. BRUCE: Mr. Coffman.  
24 MR. COFFMAN: Yes.  
25 MS. BRUCE: Mr. Drake.

41

1 MR. DRAKE: Yes.  
2 MS. BRUCE: Mr. Griesel.  
3 MR. GRIESEL: Yes.  
4 MS. BRUCE: Mr. Johnston.  
5 MR. JOHNSTON: Yes.  
6 MS. BRUCE: Mr. Mason.  
7 MR. MASON: No.  
8 MS. BRUCE: Ms. Rose.

9 MS. ROSE: No.

10 MS. BRUCE: Ms. Savage.

11 MS. SAVAGE: Yes.

12 MS. BRUCE: Mr. Sublette.

13 MR. SUBLETTE: Yes.

14 MS. BRUCE: Mr. Wuerflein.

15 MR. WUERFLEIN: Yes.

16 MS. BRUCE: Motion passed.

17 MR. MASON: All right. So help

18 us now, Ellen, with our next motion on 205,

19 because that passed.

20 MS. PHILLIPS: Since you found an

21 emergency, your next motion would be to

22 adopt these as emergency rules.

23 MR. MASON: Is there a motion?

24 MR. COFFMAN: So moved.

25 MR. MASON: Motion from Jack.

42

1 MR. JOHNSTON: Second.

2 MR. MASON: Second from Jerry.

3 Any discussion?

4           Okay. We re voting on 205 as  
5 emergency. Myrna.

6           MS. BRUCE: Ms. Cantrell.

7           MS. CANTRELL: Yes.

8           MS. BRUCE: Mr. Cassidy.

9           MR. CASSIDY: Yes.

10          MS. BRUCE: Mr. Coffman.

11          MR. COFFMAN: Yes.

12          MS. BRUCE: Mr. Drake.

13          MR. DRAKE: Yes.

14          MS. BRUCE: Mr. Griesel.

15          MR. GRIESEL: Yes.

16          MS. BRUCE: Mr. Johnston.

17          MR. JOHNSTON: Yes.

18          MS. BRUCE: Mr. Mason.

19          MR. MASON: No.

20          MS. BRUCE: Ms. Rose.

21          MS. ROSE: No.

22          MS. BRUCE: Ms. Savage.

23          MS. SAVAGE: Yes.

24          MS. BRUCE: Mr. Sublette.

25          MR. SUBLETTE: Yes.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Yes.

3 MS. BRUCE: Motion passed.

4 MR. MASON: So now we need a  
5 permanent motion on the 205 rules.

6 MR. COFFMAN: So moved.

7 MR. MASON: So moved by Jack.

8 MR. DRAKE: Second.

9 MR. MASON: Second by Bob. Any  
10 discussion from the Board?

11 May we vote, please.

12 MS. BRUCE: Ms. Cantrell.

13 MS. CANTRELL: Yes.

14 MS. BRUCE: Mr. Cassidy.

15 MR. CASSIDY: Yes.

16 MS. BRUCE: Mr. Coffman.

17 MR. COFFMAN: Yes.

18 MS. BRUCE: Mr. Drake.

19 MR. DRAKE: Yes.

20 MS. BRUCE: Mr. Griesel.

21 MR. GRIESEL: Yes.

22 MS. BRUCE: Mr. Johnston.

23 MR. JOHNSTON: Yes.

24 MS. BRUCE: Mr. Mason.

25 MR. MASON: Yes.

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1 MS. BRUCE: Ms. Rose.

2 MS. ROSE: Yes.

3 MS. BRUCE: Ms. Savage.

4 MS. SAVAGE: Yes.

5 MS. BRUCE: Mr. Sublette.

6 MR. SUBLETTE: Yes.

7 MS. BRUCE: Mr. Wuerflein.

8 MR. WUERFLEIN: Yes.

9 MS. BRUCE: Motion passed.

10 MR. MASON: All right. So now

11 we re back to Subchapter 4 and we need a

12 finding for an emergency.

13 MR. DRAKE: So moved.

14 MR. COFFMAN: Second.

15 MR. MASON: Motion from Bob,

16 second by Jack. Any discussion from the

17 Board?

18 If you re keeping up with us, Myrna,

19 we ll vote again.

20 MS. BRUCE: I may not be able to

21 read it tomorrow.

22 Ms. Cantrell.

23 MS. CANTRELL: Yes.

24 MS. BRUCE: Mr. Cassidy.

25 MR. CASSIDY: Yes.

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1 MS. BRUCE: Mr. Coffman.

2 MR. COFFMAN: Yes.

3 MS. BRUCE: Mr. Drake.

4 MR. DRAKE: Yes.

5 MS. BRUCE: Mr. Griesel.

6 MR. GRIESEL: Yes.

7 MS. BRUCE: Mr. Johnston.

8 MR. JOHNSTON: Yes.

9 MS. BRUCE: Mr. Mason.

10 MR. MASON: No.

11 MS. BRUCE: Ms. Rose.

12 MS. ROSE: No.

13 MS. BRUCE: Ms. Savage.

14 MS. SAVAGE: Yes.

15 MS. BRUCE: Mr. Sublette.

16 MR. SUBLETTE: Yes.

17 MS. BRUCE: Mr. Wuerflein.

18 MR. WUERFLEIN: Yes.

19 MS. BRUCE: Motion passed.

20 MR. MASON: So now we need a

21 second motion for an emergency rule,

22 please, on Subchapter 4.

23 MR. JOHNSTON: So moved.

24 MR. GRIESEL: I ll second.

25 MR. MASON: Jerry moves, David

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1 seconds. Any discussion from the Board?

2 We ll take a vote when you re ready.

3 MS. BRUCE: Ms. Cantrell.

4 MS. CANTRELL: Yes.

5 MS. BRUCE: Mr. Cassidy.

6 MR. CASSIDY: Yes.

7 MS. BRUCE: Mr. Coffman.  
8 MR. COFFMAN: Yes.  
9 MS. BRUCE: Mr. Drake.  
10 MR. DRAKE: Yes.  
11 MS. BRUCE: Mr. Griesel.  
12 MR. GRIESEL: Yes.  
13 MS. BRUCE: Mr. Johnston.  
14 MR. JOHNSTON: Yes.  
15 MS. BRUCE: Mr. Mason.  
16 MR. MASON: No.  
17 MS. BRUCE: Ms. Rose.  
18 MS. ROSE: No.  
19 MS. BRUCE: Ms. Savage.  
20 MS. SAVAGE: Yes.  
21 MS. BRUCE: Mr. Sublette.  
22 MR. SUBLETTE: Yes.  
23 MS. BRUCE: Mr. Wuerflein.  
24 MR. WUERFLEIN: Yes.  
25 MS. BRUCE: Motion passed.

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1 MR. MASON: Thank you.

2 I guess we re to a permanent motion

3 on Subchapter 4.

4 MR. GRIESEL: So moved.

5 MR. MASON: So moved by David.

6 MR. COFFMAN: Second.

7 MR. MASON: Second by Jack. Any

8 discussion from the Board?

9 MS. BRUCE: Ms. Cantrell.

10 MS. CANTRELL: Yes.

11 MS. BRUCE: Mr. Cassidy.

12 MR. CASSIDY: Yes.

13 MS. BRUCE: Mr. Coffman.

14 MR. COFFMAN: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Mr. Griesel.

18 MR. GRIESEL: Yes.

19 MS. BRUCE: Mr. Johnston.

20 MR. JOHNSTON: Yes.

21 MS. BRUCE: Mr. Mason.

22 MR. MASON: Yes.

23 MS. BRUCE: Ms. Rose.

24 MS. ROSE: Yes.

25 MS. BRUCE: Ms. Savage.

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1 MS. SAVAGE: Yes.

2 MS. BRUCE: Mr. Sublette.

3 MR. SUBLETTE: Yes.

4 MS. BRUCE: Mr. Wuerflein.

5 MR. WUERFLEIN: Yes.

6 MS. BRUCE: Motion passed.

7 MR. MASON: Thank you, gentlemen.

8 Now I think we re to the highway spill

9 remediation rule.

10 MR. KENNEDY: The next rulemaking

11 action we re asking the Board to consider

12 is the emergency adoption of DEQ s New

13 Chapter 210, Highway Spill Remediation.

14 The proposed Chapter 210 is to

15 implement the requirements of Senate Bill

16 1938 passed by the legislature during the

17 2006 session. The Bill created the

18 Oklahoma Highway Remediation and Cleanup

19 Services Act giving DEQ the authority to

20 license, supervise, govern and regulate  
21 highway remediation and cleanup services,  
22 and highway remediation and cleanup service  
23 operators in the State of Oklahoma. The  
24 Act further grants the Environmental  
25 Quality Board authority to pass rules

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1 implementing its requirement.  
2 While the statutory effect date was  
3 November 1, 2006, just a couple of weeks  
4 ago, the act can t be enforced until DEQ  
5 has rules to implement its requirements.  
6 DEQ staff from both environmental  
7 complaints and local services and customer  
8 services division held a series of meetings  
9 with the affected entities to obtain their  
10 input in the development of Chapter 210.  
11 What you have before you is the product of  
12 those meetings.  
13 Prior to the October 5th Council  
14 meeting, DEQ received several comments

15 which are summarized in your executive  
16 summary. All suggestions that DEQ felt had  
17 the authority to include have been  
18 incorporated into the final version of  
19 Chapter 210 that you have before you. The  
20 Council realizes that the proposed Chapter  
21 210 will require additional fine tuning.  
22 Emphasize, additional fine tuning.  
23 However, the Council, DEQ staff, and  
24 I think most of the affected entities  
25 believe the Chapter 210 rules before you

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1 present the best product that could be  
2 produced given the very short time in which  
3 to do so. And they did have a very short  
4 time. I don't remember when this  
5 particular Senate Bill was approved but I  
6 think it was passed the 11th hour.

7 The Council asked the Board to adopt  
8 Chapter 210 with the emergency provision so  
9 that the requirements of Senate Bill 1938

10 can be implemented immediately upon the  
11 Governor s approval of these rules.

12 Now DEQ staff are available to help  
13 answer any questions the Board or members  
14 of the public may have. And I will  
15 definitely need their help on this one.

16 MR. MASON: All right, Bob.

17 MR. DRAKE: Now I can go. I ve  
18 had some people that have contacted me on  
19 this and there is a lot of concern out  
20 there, which we all know. And the reason  
21 for the comments is that it s plainly,  
22 plainly not DEQ that made this particular  
23 increase and which, in my opinion, is very  
24 onerous, it came from the legislature. So  
25 what we re doing is simply providing the

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1 rules to do what the Legislature has told  
2 us to do.

3 MR. KENNEDY: Absolutely.

4 MR. DRAKE: And the reason for my

5 comments is that I want to make it clear in  
6 the Minutes that we are doing that very  
7 thing, that DEQ did not raise these rates,  
8 that DEQ is simply making the rules to put  
9 them in effect. That was the reason for my  
10 comment, it s plainly stated in your  
11 presentation here that that s what we re  
12 doing in a short time frame. So that was  
13 the reason. I couldn t remember which  
14 question it was. But that was the reason  
15 because I wanted DEQ to have some cover in  
16 Southern Oklahoma terms for what we re  
17 about to do.

18 MR. KENNEDY: Well, we have our  
19 protective vests on.

20 MR. THOMPSON: I guess, for those  
21 of you who don t know me, I m Steve  
22 Thompson, I m the Executive Director of the  
23 DEQ. To put some context around the  
24 comments about a short time frame, this  
25 Bill actually passed on the very last day

1 of the legislative session of this year, on  
2 May the 28th, as I recall. Then, of  
3 course, there was some time before they  
4 were signed into law by the Governor. So  
5 it was about the middle of June before we  
6 could really move forward with the Council  
7 to adopt the rules in support of the  
8 statute which went into effect, actually  
9 November the 1st. But I think that we all  
10 believed that it was in the best interest  
11 to have the Board -- the Council and the  
12 Board take a shot at rules and so we have  
13 delayed implementation of this until this  
14 meeting.

15 But it was, in fact, a very short  
16 time frame in which the Council had to work  
17 in order to get something prepared for the  
18 Board Meeting today. And those are  
19 statutory fees. I mean they are repeated  
20 in the rule but as Bob mentioned the new  
21 fee and the renewal fee are both set by  
22 statute.

23 MR. MASON: Board, questions?

24 MR. CASSIDY: Is there something

25 similar to this in surrounding states? Do

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1 they have, kind of comparable laws?

2 MR. THOMPSON: Gary, do you know?

3 MR. COLLINS: I know there are

4 some states -- Gary Collins, Director of

5 Complaints and Local Services. I know

6 there are some states that have similar

7 rules but I don't -- because we did a

8 little internet research just to try to

9 come up with some rules.

10 MR. CASSIDY: How does our fee

11 structure compare to theirs? Similar?

12 MR. COLLINS: There is some

13 similarities, yeah. Some of them are --

14 some of the rules, obviously, are a lot

15 more detailed than ours because of the

16 short time frame we had to write these but

17 there is some similarities also.

18 MR. THOMPSON: We have -- the  
19 Oklahoma Hazardous Emergency Response  
20 Commission has for some time struggled with  
21 the idea of what a qualified -- there is a  
22 statute that says that some one must be  
23 qualified. They've always looked at the  
24 DEQ to define what qualified meant. And we  
25 have struggled -- quite frankly the

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1 Department has struggled with that issue.  
2 The two issues that the bill  
3 addressed in my view that helped us do that  
4 were the issues of both training and  
5 insurance. Those were the two issues -- I  
6 think the two overriding issues that one  
7 would look at when one was talking about  
8 someone qualified to do that. So the  
9 action of the Council and the decision of  
10 the Board is that we have in the rules set  
11 both the level of insurance we think is --  
12 that the Council believed was appropriate

13 for people in this business and the level  
14 of training necessary to be involved in  
15 this. As to the fee, again, I can only say  
16 that that was set by statute. Is that fair  
17 to say, Gary?

18 MR. COLLINS: Exactly.

19 DR. SUBLETTE: I have a few  
20 questions I d like to ask if I may. There  
21 is a definition in here of the law  
22 enforcement officers being the lead  
23 official as defined by the Oklahoma  
24 Emergency Response Act. What is that  
25 definition?

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1 MR. COLLINS: Basically, what it  
2 says is that if it s on a highway, it s the  
3 Highway Patrol, if it s in the city limits  
4 of a town, it s the fire marshal.

5 DR. SUBLETTE: Okay. What  
6 authority does that person have?

7 MR. COLLINS: Under these rules?

8 DR. SUBLETTE: Yes.

9 MR. COLLINS: Under these rules

10 they're the person that makes the call when

11 something needs to be cleaned up, if there

12 is a small spill they can say we don't need

13 a licensed person to come in and clean that

14 up, this small, five gallon spill, then

15 they can just put some absorbent down,

16 clean it up, and remove it. If it's a

17 large spill they can call in a remediation

18 company -- a licensed remediation company.

19 They also have the power to -- well, an

20 extreme example would be, say there was a

21 truck spill in Idabel and the person that

22 owned the load said, "I want to call

23 somebody from Guymon to come down and clean

24 this up", and this was on a major highway.

25 Well, the highway patrol on scene could

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1 say, "no, that's not quick enough, you've

2 got to call somebody closer". So they have

3 the authority to call someone other than  
4 the person that the trucking company wants  
5 to use in an emergency. They can declare  
6 an emergency.

7 They can also declare an emergency  
8 if in their opinion -- you know it's going  
9 to take two hours for a remediation company  
10 to get there they can declare an emergency  
11 and call in someone who is unlicensed to  
12 help resolve that emergency.

13 DR. SUBLETTE: Or, if need be,  
14 someone from out of state?

15 MR. COLLINS: If need be someone  
16 from out of state.

17 DR. SUBLETTE: If it's an  
18 emergency?

19 MR. COLLINS: If it's an  
20 emergency.

21 DR. SUBLETTE: So this person  
22 then, it sounds to me like, has basically  
23 the same authority and responsibility  
24 equivalent to an EPA on-scene coordinator;  
25 is that correct?

1           MR. COLLINS: I m not familiar  
2 with their authority.

3           DR. SUBLETTE: Well, one of the  
4 things I m interested in is how do they  
5 decide which contractor to call, how do  
6 they evaluate the means that are going to  
7 be utilized by the contractor -- proposed  
8 by the contractor to address the emergency  
9 or to address the situation. How do they  
10 decided whether removal and disposal is the  
11 appropriate response or remediation is the  
12 appropriate response? It seems to me that  
13 a lot of decisions are being made by  
14 someone who is not really trained to make  
15 those decisions.

16           MR. COLLINS: Yeah. We have a 24  
17 hour number. Our complaints hotline is  
18 also used for spills and Highway Patrol can  
19 call us 24 hours a day, and do. When they  
20 have something major they ll call us and

21 we ll get one of our experts to talk to  
22 them and give our opinion. So the Highway  
23 Patrol isn t solely left up -- they are not  
24 up there on their own, they have the DEQ s  
25 support and decision making and they call

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1 us.

2 BOARD MEMBER: Did you have --

3 MR. THOMPSON: I think, and Gary  
4 pretty well covered it. They are in  
5 essence and I don t have the statutory  
6 language in front of me, but they are in  
7 essence the on-scene decision maker. And  
8 there was a time when the state tried to be  
9 in the emergency response business and we  
10 had something called a HERO van and that  
11 proved to be something less than heroic  
12 because by the time we got there it was  
13 past the time for decision-making. And so  
14 the state, through the Emergency Response  
15 Act, has simply said that these folks, by

16 statute are the decision makers. And then  
17 there are a whole ray of agencies that are  
18 tasked with support. DEQ, the Health  
19 Department -- Judy, or somebody, help me  
20 out. There are an awry in that Act.

21 I m sorry, what?

22 MS. DUNCAN: Corporation  
23 Commission.

24 MR. THOMPSON: The Corporation  
25 Commission -- of agencies, which by statute

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1 are designated as support for that person  
2 so that they are not necessarily out there  
3 alone without some technical or health  
4 assistance in making those decisions. But  
5 I think time has shown that you have to  
6 have somebody on-site willing to make those  
7 decisions with that support and the  
8 statutes have designated these folks to do  
9 that.

10 MR. COLLINS: Yeah, the person

11 that answers that 24 hour number, that DEQ  
12 complaints hotline, has a book with them  
13 that has phone numbers and they've got all  
14 the directors, they could wake me up in the  
15 middle of the night and I can call and wake  
16 Jon Craig up in the middle of the night and  
17 we can call EPA. We've got all those phone  
18 numbers that goes with that phone. Whoever  
19 is manning that phone that week has those  
20 numbers. So when the highway patrol calls  
21 us to report a spill and says, "I need some  
22 help here, what do I need to do", then we  
23 can wake up whoever we need to in the  
24 middle of the night.

25 DR. SUBLETTE: Is there going to

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1 be any effort to have something akin to the  
2 EPA on-scene coordinators approved list of  
3 products that can be utilized for  
4 containment and remediation?

5 MR. COLLINS: We don't have

6 anything like that in these rules but --

7 DR. SUBLETTE: Could it be  
8 incorporated by reference?

9 MR. COLLINS: It probably could  
10 be. Like I say, I expect that probably  
11 during the next session the statute will  
12 probably change and we will be bringing  
13 these rules back to you. As a matter of  
14 fact, we re going to bring them back to you  
15 at the February/March meeting, whatever it  
16 is, for permanent adoption, but we ll also,  
17 after the session is over, I suspect we ll  
18 be bringing them back to the Board for  
19 further changes because I expect they will  
20 change during the legislative session.

21 MR. THOMPSON: I think there is  
22 also a question -- there s a legal  
23 jurisdictional question as to whether  
24 something like that would fall under the  
25 jurisdiction of the Environmental Quality

1 Board or under the jurisdiction of the  
2 Hazardous Emergency Response Commission  
3 that we would have to look into and advise  
4 the Board on in the future.

5 MR. MASON: Other questions?

6 DR. SUBLETTE: One last question  
7 and I think it was referenced earlier, but  
8 just to be clear in my mind, as far as the  
9 licensing is concerned what kind of  
10 training has to be documented or does -- or  
11 I guess the appropriate question is does  
12 the appropriate training have to be  
13 documented prior to a license being issued?

14 MR. COLLINS: I think the rules  
15 say you have to have -- it references the  
16 OSHA rules, the 40 CFR, 29 CFR 19.10.120.  
17 And that s the training they have to have  
18 and on the license application we ask that  
19 they certify that all of their employees  
20 are trained and it also requires that they  
21 carry a card, and they are issued a card  
22 when they get that training. So whoever is  
23 on-scene -- the highway patrol is on-scene

24 they can ask for the card to prove they  
25 have the training. Rather than asking for

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1 the names of all those people, which will  
2 probably change throughout the year, we  
3 just decided to ask the owner or whoever is  
4 filling out the application to certify  
5 they re trained and then asked that they  
6 carry the card when they re on the scene.

7 DR. SUBLETTE: Thank you.

8 MR. MASON: I have a question.

9 In my experience, like I ve seen, the Fire  
10 Department Hazmat teams spreading absorbent  
11 on the street and sweeping it up. Does  
12 this affect them?

13 MR. COLLINS: No. They re not  
14 going to remediate a large spill. If there  
15 is a small spill, a wrecker service can  
16 pull out there and put some absorbent down  
17 and clean that up. Under these rules we  
18 don t -- the rules -- there is a section

19 here that defines hazardous material under  
20 the definitions. "Harmful to the  
21 environment and such that it is appropriate  
22 to impose special requirements".

23 So the on-scene commander, which  
24 would be the fire department that s in the  
25 city limits, can make the decision that I

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1 don t believe this requires special  
2 handling.

3 "This is a diesel spill, it s five  
4 gallons, I can put some absorbent down and  
5 clean that up and go on". That doesn t  
6 require special handling. It doesn t  
7 require someone who s licensed and trained  
8 to do. However, if it was a large spill,  
9 if there was chlorine tanker turned over,  
10 the Hazmat crew is not going to clean that  
11 up. They may come in and evacuate people  
12 and try to close a valve or something, but  
13 they re going to call a remediation company

14 to clean that up.

15 DR. SUBLETTE: I do have one more

16 question. Who is going to ultimately

17 follow up on the spill response and is

18 there a closure process or -- who's going

19 to basically say that this remediation or

20 clean up is finished?

21 MR. COLLINS: That would be DEQ.

22 If there is a large spill, we're involved

23 in that and they would have to -- whatever

24 they pick up and dispose of obviously has

25 to be tested before it's taken to a

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1 landfill and there has to be samples taken

2 out of the pit that they've dug and where

3 they've cleaned it up to certify that it's

4 clean.

5 DR. SUBLETTE: Does anyone from

6 DEQ for a large site -- did anyone from DEQ

7 inspect the site or do you utilize

8 contractor records?

9 MR. COLLINS: Yeah, that would be  
10 -- if it s a large site our local  
11 environmental specialist will be there and  
12 if they need help then they ll be  
13 contacting Jon Roberts from Hazardous  
14 Waste.

15 MR. THOMPSON: Just to follow up  
16 on that, I think there is a requirement  
17 that they report the activities relative to  
18 this spill and the disposal issues. So  
19 where there s a requirement that they  
20 report to us what they did, then we would  
21 probably follow up on that also.

22 MR. COLLINS: Correct.

23 MR. GIVENS: Mr. Chairman, if I  
24 could just follow up. Gary, I think one  
25 thing may need to be clarified, while in

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1 the vast majority of cases, DEQ would be  
2 responsible for determining that the spill  
3 had been adequately cleaned up. There

4 maybe circumstances in which another agency  
5 would actually have the responsibility to  
6 make that determination. Is that correct?

7 MR. COLLINS: That s correct.

8 Yeah. The products that are licensed are  
9 regulated by the Corporation Commission.  
10 For example, like if there was a saltwater  
11 spill that wouldn t be something that would  
12 fall under these rules, because that s not  
13 considered a hazardous material.

14 DR. SUBLETTE: Would that be OCC  
15 then?

16 MR. COLLINS: That would be OCC,  
17 right.

18 MR. MASON: All right. Let s see  
19 if we have any public comments for a  
20 moment. I bet there are a few.

21 MR. COLLINS: I think we ve had  
22 about four public meetings so we ve had  
23 lots of opportunities.

24 MR. MASON: It looks like some  
25 interested parties are out in the audience.

1 Do you guys have any input for us?

2 MR. COFFMAN: Mr. Chairman, I

3 have a question. Do we -- on this one, do

4 we need a finding of an emergency as well?

5 MR. MASON: Yes, sir. And then

6 they weren't passed as permanent so we

7 won't pass them as permanent, just as

8 emergency.

9 MR. COFFMAN: Okay. So we need a

10 finding of emergency and then pass it as an

11 emergency; correct?

12 MR. MASON: Uh-huh.

13 MR. COFFMAN: And the emergency

14 is?

15 MR. COLLINS: The emergency is

16 that the statute said that the law took

17 effect November 1st and we didn't feel like

18 we could implement the statutory

19 requirement until we got rules.

20 MR. WUERFLEIN: Question. If we

21 pass it as emergency only, is there a time

22 frame that the emergency is only good for  
23 or is the emergency good until something  
24 else changes?

25 MS. PHILLIPS: The emergency rule

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1 would be effective through July 14th  
2 following the next session.

3 MR. WUERFLEIN: Just through --  
4 okay, the legislative session.

5 MS. PHILLIPS: So it s through  
6 this next session and then July 14th.

7 MR. WUERFLEIN: Okay.

8 MS. PHILLIPS: So we ll need to  
9 adopt permanent rules before that time --

10 MR. WUERFLEIN: Before July.

11 MS. PHILLIPS: -- to continue.

12 MR. WUERFLEIN: Okay.

13 MR. MASON: More questions from  
14 the Board or is there a decision or  
15 pleasure?

16 MS. CANTRELL: Move approval --

17 MR. MASON: As finding of  
18 emergency.

19 MS. CANTRELL: -- as finding of  
20 emergency.

21 MR. MASON: Okay.

22 MR. COFFMAN: Second.

23 MR. MASON: Motion from Brita and  
24 a second from Jack. Any Board discussion?

25 May we have a vote, please.

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1 MS. BRUCE: Ms. Cantrell.

2 MS. CANTRELL: Yes.

3 MS. BRUCE: Mr. Cassidy.

4 MR. CASSIDY: Yes.

5 MS. BRUCE: Mr. Coffman.

6 MR. COFFMAN: Yes.

7 MS. BRUCE: Mr. Drake.

8 MR. DRAKE: Yes.

9 MS. BRUCE: Mr. Griesel.

10 MR. GRIESEL: Yes.

11 MS. BRUCE: Mr. Johnston.

12 MR. JOHNSTON: Yes.  
13 MS. BRUCE: Mr. Mason.  
14 MR. MASON: Yes.  
15 MS. BRUCE: Ms. Rose.  
16 MS. ROSE: Yes.  
17 MS. BRUCE: Ms. Savage.  
18 MS. SAVAGE: Yes.  
19 MS. BRUCE: Mr. Sublette.  
20 MR. SUBLETTE: Yes.  
21 MS. BRUCE: Mr. Wuerflein.  
22 MR. WUERFLEIN: Yes.  
23 MS. BRUCE: Motion passed.  
24 MR. MASON: Many thanks to your  
25 Council, this is hard work. We look

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1 forward to seeing you, I guess, at our next  
2 meeting.

3 MR. KENNEDY: I m sure. I m sure  
4 this is not the end of this.

5 MR. MASON: Okay. And then we  
6 also need a motion to adopt this as an

7 emergency.

8 MR. JOHNSTON: I move to adopt as

9 emergency.

10 MS. CANTRELL: Second.

11 MR. MASON: Motion from Jerry,

12 second from Brita.

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Mr. Cassidy.

16 MR. CASSIDY: Yes.

17 MS. BRUCE: Mr. Coffman.

18 MR. COFFMAN: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Mr. Griesel.

22 MR. GRIESEL: Yes.

23 MS. BRUCE: Mr. Johnston.

24 MR. JOHNSTON: Yes.

25 MS. BRUCE: Mr. Mason.

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1 MR. MASON: Yes.

2 MS. BRUCE: Ms. Rose.

3 MS. ROSE: Yes.

4 MS. BRUCE: Ms. Savage.

5 MS. SAVAGE: Yes.

6 MS. BRUCE: Mr. Sublette.

7 MR. SUBLETTE: Yes.

8 MS. BRUCE: Mr. Wuerflein.

9 MR. WUERFLEIN: Yes.

10 MS. BRUCE: Motion passed.

11 MR. MASON: Our next rule I think

12 discusses Laboratory s.

13 MR. DUZAN: Thank you. My name

14 is Brian Duzan, I m the Chairman of the

15 Laboratory Services Advisory Council.

16 Amendments are proposed to OAC

17 252:300 Laboratory Accreditation Rules.

18 The purpose of these rules is to implement

19 the DEQ s program for accreditation of

20 environmental laboratories. Laboratory

21 accreditation is a means to insure that

22 environmental data is of known and

23 documented quality and thus is suitable for

24 use in environmental decision making.

25           The proposed changes include

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1   correcting inconsistencies in Subchapter 17  
2   by updating a reference to the EPA s  
3   drinking water certification manual. OAC  
4   252:300-7-3 referenced the Fifth Edition  
5   and OAC 252:300-17-3 referenced the Fourth  
6   Edition. We need to correct the reference  
7   in 17-3 to reflect the current EPA manual.

8           Laboratories accredited by the DEQ  
9   are required to use EPA approved  
10  methodologies or methods specifically  
11  approved by the DEQ. As the EPA or the  
12  Board promulgates new rules, methodologies,  
13  or quality assurance, quality controlled  
14  requirements, accredited labs have to  
15  incorporate these procedures for all  
16  accredited analysis.

17           Today we propose two changes to rule  
18  252:300-19-3, which sets forth accepted  
19  methods.

20           Daphnia magna life-cycle toxicity  
21 measures the toxicity level of effluent  
22 from a municipal water treatment plant as  
23 an indicator of other acute toxic compounds  
24 entering into water bodies. The DEQ Water  
25 Quality Division is requiring several

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1 municipalities to perform daphnia magna  
2 life-cycle toxicity tests as a condition of  
3 their OPDES permit. Laboratory analysis  
4 must be performed by certified  
5 laboratories. Therefore, we propose that  
6 the daphnia magna life-cycle toxicity  
7 testing be added to OAC 252:300-19-3.

8           One type of sludge is the solid  
9 matter from wastewater treatment plants  
10 which is often land applied under an OPDES  
11 permit issued by the DEQ. We propose that  
12 the federal sampling and analytical  
13 requirements for sludge be incorporated by  
14 reference at OAC 252:300-19-3.

15           As you may know salmonella bacteria  
16 cause people to develop abdominal cramps  
17 and other symptoms with severe symptoms  
18 occurring in the elderly, infants and those  
19 with impaired immune systems. The DEQ is  
20 requiring several municipalities to perform  
21 salmonella testing as a condition of their  
22 OPDES permit. Since laboratory analysis  
23 must be performed by a certified laboratory  
24 we propose to add salmonella testing to  
25 Appendix B, analyze for general water

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1 quality laboratories categories, category  
2 VII, Microbiology.

3           Judy Duncan is here with me today  
4 and we will try to answer any questions  
5 that you may have regarding these proposed  
6 changes.

7           MR. MASON: Questions from the  
8 Board?

9           Brian, what s a daphnia magnum look

10 like?

11 MR. DUZAN: Minnow.

12 MR. MASON: Minnow? Okay.

13 Other Board questions?

14 Questions from the public?

15 MR. GRIESEL: I'll move for

16 approval.

17 MR. MASON: We have a motion from

18 David for permanent adoption.

19 MR. JOHNSTON: Second.

20 MR. MASON: Second from Jerry.

21 Any discussion from the Board?

22 If we could have a vote, please,

23 Myrna.

24 MS. BRUCE: Ms. Cantrell.

25 MS. CANTRELL: Yes.

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1 MS. BRUCE: Mr. Cassidy. Oops.

2 Mr. Coffman.

3 MR. COFFMAN: Yes.

4 MS. BRUCE: Mr. Drake.

5 MR. DRAKE: Yes.

6 MS. BRUCE: Mr. Griesel.

7 MR. GRIESEL: Yes.

8 MS. BRUCE: Mr. Johnston.

9 MR. JOHNSTON: Yes.

10 MS. BRUCE: Mr. Mason.

11 MR. MASON: Yes.

12 MS. BRUCE: Ms. Rose.

13 MS. ROSE: Yes.

14 MS. BRUCE: Ms. Savage.

15 MS. SAVAGE: Yes.

16 MS. BRUCE: Mr. Sublette.

17 MR. SUBLETTE: Yes.

18 MS. BRUCE: Mr. Wuerflein.

19 MR. WUERFLEIN: Yes.

20 MS. BRUCE: I will note that

21 Mr. Cassidy did step out of the room.

22 Motion passed.

23 MR. MASON: Thank you.

24 Scott Thompson, who s the Director

25 of Land Protection is going to make this

1 next presentation on radiation.

2 MR. THOMPSON: Dr. Gooden  
3 couldn't be here today so I'm pinch-  
4 hitting. Take it easy on me, though.

5 Basically, most of the rules we have  
6 here today are incorporation by reference  
7 of federal rules from the Nuclear  
8 Regulatory Commission that went into effect  
9 on January 1, 2005. Other changes of  
10 importance are those pertaining to the  
11 recognition of specialty boards and the  
12 training of Radiation Safety Officers as  
13 related to the medical use of radioactive  
14 material and those pertaining to the  
15 requirements that will increase the  
16 security of portable gauges containing  
17 radioactive material. These changes are  
18 necessary to maintain compatibility with  
19 the NRC rules as Oklahoma is required to  
20 under our agreement state status.

21 Another amendment would add a  
22 provision that clarifies the regulations

23 incorporated by reference in the NRC  
24 regulations adopted by DEQ and would be  
25 considered to be adopted by reference under

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1 our rules.

2 The Subchapter 10 changes would  
3 bring the list of the NRC regulations  
4 reserved for exclusive enforcement by the  
5 NRC into compliance with changes made by  
6 the NRC as of January 2005. They re  
7 reserving some of the enforcement capacity  
8 themselves for certain activities.

9 And also subsection (c) is revised  
10 and subsection (d) is deleted as they are  
11 no longer needed for changes that  
12 previously took effect when we became an  
13 agreement state. And also in Subchapter 10  
14 and in 20, changes in parts 30, 31, 32, 34,  
15 35, 39, 70, and 71 and in Section 1 of  
16 Subchapter 20 correct scrivener's errors  
17 that were made in previous versions of the

18 rules. And they also make some minor  
19 formatting changes to comply with the way  
20 the NRC is formatting rules.

21 In the text, above changes  
22 (inaudible) and additions have been  
23 provided in full to the members of the  
24 Board in the materials you have. We need  
25 to do this just to stay consistent with the

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1 federal rules. None of these rules were  
2 controversial with the Council. They all  
3 passed.

4 MR. MASON: Questions from the  
5 Board?

6 Questions from the public?

7 What would we like to do with these?

8 MR. GRIESEL: Move approval.

9 MR. MASON: David moves approval.

10 MR. COFFMAN: Second.

11 MR. MASON: Second from Jack. Is

12 there a discussion from the Board?

13 May we have a vote, please, Myrna.

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Cassidy.

17 MR. CASSIDY: Yes.

18 MS. BRUCE: Mr. Coffman.

19 MR. COFFMAN: Yes.

20 MS. BRUCE: Mr. Drake.

21 MR. DRAKE: Yes.

22 MS. BRUCE: Mr. Griesel.

23 MR. GRIESEL: Yes.

24 MS. BRUCE: Mr. Johnston.

25 MR. JOHNSTON: Yes.

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1 MS. BRUCE: Mr. Mason.

2 MR. MASON: Yes.

3 MS. BRUCE: Ms. Rose.

4 MS. ROSE: Yes.

5 MS. BRUCE: Ms. Savage.

6 MS. SAVAGE: Yes.

7 MS. BRUCE: Mr. Sublette.

8 MR. SUBLETTE: Yes.

9 MS. BRUCE: Mr. Wuerflein.

10 MR. WUERFLEIN: Yes.

11 MS. BRUCE: Motion passed.

12 MR. MASON: Let s take about a 10

13 minute break.

14 (Break)

15 (Back from break)

16 MR. MASON: Item 9 is rulemaking

17 regarding solid waste management, I think,

18 with a presentation by Jay Stout.

19 MR. STOUT: I m Jay Stout, Chair

20 of the Solid Waste Management Advisory

21 Council. This particular rulemaking came

22 to you by the Senate Bill 1557, which was

23 signed by the Governor on July the 1st. It

24 is not an emergency though. Then it came

25 to the DEQ to write the rules and the ways

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1 as (inaudible) from the legislature works

2 that way. After the DEQ wrote the regs,

3 then it came to our Advisory Council. To  
4 tell it like it is, we nit picked over one  
5 word for half a day and finally agreed to  
6 change the one word, so I don t think it  
7 really affected it any, so you don t have  
8 to worry about that.

9       The importance of the bill is for  
10 the -- is to develop or allow landfills to  
11 do a wheel wash system for these trucks  
12 that come in. Now we don t anticipate a  
13 small landfill being interested in this  
14 because of the cost, only the larger ones  
15 may apply. You have to apply if you want  
16 to do this before June of 07 and it has to  
17 be instructed and approved and in place by  
18 June 08.

19       The reimbursement for the cost of  
20 the construction up to a total of \$300,000  
21 for everyone, not just one landfill, comes  
22 from a ten cent per ton fee. After the  
23 \$300,000, if it goes that high, is  
24 expensed, then the DEQ -- the fee -- the  
25 ten cent fee still stays in place but it

1 goes to the DEQ. It s that simple.

2 If you have anything that you  
3 particularly want to ask, I ll refer you to  
4 Oklahoma City. You can call.

5 MR. MASON: Board questions?

6 Can you help educate this Board and  
7 explain this a little bit, how large the  
8 solid waste fee is and how it s distributed  
9 when it s collected?

10 MR. STOUT: The solid -- are you  
11 talking about this particular item?

12 MR. MASON: No. The total solid  
13 waste fee is a dollar and a quarter? We  
14 discussed briefly of the dollar and a  
15 quarter how much -- where the money goes  
16 and where the money goes in relation to  
17 this change.

18 MR. STOUT: Well, usually the  
19 legislature swipes it.

20 Steve, do you want to add to that?

21 MR. THOMPSON: I don t know the  
22 number right now -- David? Okay. Well, I  
23 think the income from the solid waste fee  
24 runs right around \$400,000. I mean Four  
25 Million Dollars. I m sorry. About Four

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1 Million Dollars. The last figures I saw  
2 indicated that the operation of the solid  
3 waste program took up about 2.75 million  
4 dollars. Then by statute, we re allowed to  
5 use solid waste fees for local services,  
6 particularly with -- some on the Board may  
7 recall that we were given the  
8 responsibility for the Oklahoma City and  
9 Tulsa City County Environmental Activities  
10 by the legislature with no funds. But at  
11 the same time we -- this was in 97 or 98,  
12 as I recall.

13 UNIDENTIFIED MALE: 97.

14 MR. THOMPSON: I m sorry?

15 UNIDENTIFIED MALE: 97.

16 MR. THOMPSON: 97? Okay. Not  
17 bad for an old man. So we have over time  
18 used a portion of that money to fund our  
19 local services.  
20 Now as Gary and his folks have  
21 raised fees and done things to support the  
22 activities of local services, we have tried  
23 to send that money back but there is always  
24 something that seems to interfere with  
25 that. So my recollection of that is now

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1 about six or seven hundred thousand dollars  
2 that s used for local services. We re  
3 obligated -- I mean we are allowed up -- to  
4 use that funding for that purpose up to One  
5 Million Dollars. There was a time when we  
6 were using the full million, we re down to  
7 about \$700,000. I think we had it down at  
8 one time to \$500,000 and we had to up that  
9 because of some expenses that they had.  
10 The remainder of it are used for

11 solid waste planning issues. We use money  
12 for chippers, we use it for other solid  
13 waste activities throughout the state.  
14 This past year the legislature -- there was  
15 a bill that allowed \$300,000 to be used for  
16 wheel washes for solid waste facilities and  
17 so that will take, if it s fully  
18 implemented, up to a cap of \$300,000.

19       So I suppose, in general, there s  
20 about four categories: That s the operation  
21 of the program itself; the department used  
22 for local services; the department used for  
23 county solid waste planning; and now the  
24 \$300,000 that will be used assuming full  
25 implementation of -- assuming it reaches

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1 the cap of the wheel washes for landfills.

2       MR. MASON: Thank you. Questions  
3 from the Board? Questions from the public?

4       MR. JOHNSTON: Move to approve.

5       MR. GRIESEL: Second.

6 MR. MASON: Motion from Jerry and  
7 second from David. Is there any  
8 discussion?

9 Myrna, may we vote.

10 MS. BRUCE: Ms. Cantrell.

11 MS. CANTRELL: Yes.

12 MS. BRUCE: Mr. Cassidy.

13 MR. CASSIDY: Yes.

14 MS. BRUCE: Mr. Coffman.

15 MR. COFFMAN: Yes.

16 MS. BRUCE: Mr. Drake.

17 MR. DRAKE: Yes.

18 MS. BRUCE: Mr. Griesel.

19 MR. GRIESEL: Yes.

20 MS. BRUCE: Mr. Johnston.

21 MR. JOHNSTON: Yes.

22 MS. BRUCE: Mr. Mason.

23 MR. MASON: Yes.

24 MS. BRUCE: Ms. Rose.

25 MS. ROSE: Yes.

1 MS. BRUCE: Ms. Savage.

2 MS. SAVAGE: Yes.

3 MS. BRUCE: Mr. Sublette.

4 MR. SUBLETTE: Yes.

5 MS. BRUCE: Mr. Wuerflein.

6 MR. WUERFLEIN: Yes.

7 MS. BRUCE: Motion passed.

8 MR. MASON: Thank you. Thanks, Jay.

9 MR. STOUT: Thank you.

10 MR. MASON: Item 10 is our

11 Environmental Quality Report.

12 MR. KENNAMER: Good morning. I m

13 Craig Kennamer and I m the Deputy Executive

14 Director for the DEQ. And the state law

15 requires submittal and approval by the

16 Environmental Quality Report every year to

17 the Governor, the Speaker of the House, and

18 the Senate Pro Tem, by January 1st. So

19 we re here today to get approval of the

20 Environmental Quality Report by the Board.

21 And the report has three components. One

22 is the budget, which you ve already seen

23 and approved; the second is the federal

24 mandate; and then the third is the  
25 legislative recommendations.

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1           So, I m going to skip briefly to the  
2 legislative recommendations and go through  
3 the three items that we have today. One is  
4 for legislation for Blue Skys -- Blue  
5 Skyways, which is part of the budget  
6 request that you saw earlier. The Oklahoma  
7 Constitution has provisions that make it  
8 somewhat problematic for us to provide  
9 funds from the public sector to a non-  
10 governmental entity. And so in order for  
11 us to do that, the Oklahoma Supreme Court  
12 has laid out three basic tests to have in  
13 place before you can provide those funds to  
14 a non-governmental entity. And those are  
15 to have safe guard controls and to have an  
16 economic -- or demonstrate an economic  
17 benefit to either the public or to the  
18 state.

19           And so what we are proposing with  
20 this legislation that will provide those  
21 safe guards and controls through a  
22 contractual arrangement with a non-  
23 governmental and governmental entities in  
24 order for us to provide these contracts and  
25 pass through the money for the Blue Skyways

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1 project. And if you recall, the Blue  
2 Skyways project was that very worth while  
3 project to help reduce fleet vehicles  
4 emissions either at truck stops or other  
5 methods of emissions reduction.

6           The second thing we re going to do  
7 is -- or we re requesting is hazardous  
8 waste legislation and it really is dealing  
9 with the solid waste funds on the wheel  
10 wash. And if you recall, there was  
11 legislation that was passed a year ago for  
12 ten cents of every \$1.25 per ton to be held  
13 back and not submitted to the state for

14 spending on wheel washes. And you could  
15 spend -- we could spend up -- I mean they  
16 could retain up to \$300,000 each year. If  
17 we get to a year where we don't retain or  
18 use that \$300,000, we plan to spend that  
19 \$300,000 for closure of solid waste  
20 facilities where we have facilities that  
21 don't have the proper funding and the  
22 owners are judgment (inaudible). And we  
23 have a lot of those around the state, not a  
24 great number, but we do have a lot of those  
25 that we could use that money for. And so

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1 we're going to request that the legislature  
2 give us the language to do that.

3 The other thing is in the Clean  
4 Water Act there is some clean-up language.  
5 We have bill references under the OPDES  
6 portion of that water act that should be  
7 statutory references and not references to  
8 bills because they're confusing when you

9 have to go back and look at the actual bill  
10 that passed and try to find out what the  
11 statute reference is. So we re going to  
12 use that statute or that recommended  
13 legislation to clean that up, but it will  
14 also serve as a place holder if something  
15 should come up for the water program later  
16 in the year.

17 On the federal mandate portion it is  
18 not quite a mandate yet because it hasn t  
19 come down from EPA, but it is imminent, and  
20 that is that they are going to, actually,  
21 not even pass a rule, they re going to --  
22 because it s coming through the budgetary  
23 process, they can do this through guidance  
24 and it s going to require that states have  
25 an NPDS permitting fee program in place

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1 that funds at a minimum 50 percent and more  
2 likely 100 percent of their NPDS program  
3 before they re eligible for the federal

4 grant money.

5       And so it's kind of a forced fee  
6 program to help fund the short falls in the  
7 federal Clean Water Act dollars. And what  
8 the problem with that is, is it's going to  
9 place the burden squarely on the  
10 municipalities in the state because they  
11 are already having difficulty paying the  
12 fees and it's going to require us to raise  
13 our fees to those municipalities in order  
14 for the state to receive these federal  
15 grant dollars.

16       To give you an example, there is 672  
17 municipalities in the state of Oklahoma and  
18 30 percent of them have less than 500  
19 people. So you can imagine what that's  
20 going to do to them if we have to raise the  
21 fees. We are fighting this at the national  
22 level and -- but it is really steam rolling  
23 forward, as Steve can tell you. It's a  
24 scary prospect.

25       I'm going to pause for questions. I

1 will tell you that Eddie is going to speak  
2 further in his presentation later on Blue  
3 Skyways, but we need to seek approval so we  
4 can be compliant with the statute of the  
5 January 1st date. Thank you.

6 MR. MASON: Questions for Craig?

7 MS. SAVAGE: Craig, I was just  
8 wondering, do you anticipate a change since  
9 we -- in the last election we had such a  
10 drastic change? Does it -- so does EPA  
11 just continue on with that?

12 MR. KENNAMER: Well, since the  
13 administration is still the same and this  
14 is coming from the administrative side of  
15 the Agency that I -- I imagine it will  
16 continue to steam roll as long as they can.

17 MS. SAVAGE: And it doesn't have  
18 anything to do with the Congress?

19 MR. KENNAMER: Well, there is  
20 probably some point that the Congress will  
21 be able to step up and speak and make some

22 changes, but right now as long as the  
23 administration stays the same, this process  
24 is going to stay the same.

25 MR. THOMPSON: We merged the

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1 Environment of Public Works Committee under  
2 Senator Inhofe and both the DEQ and ECOS,  
3 which is the Environmental Commissioners  
4 Group, will continue to ask that same  
5 committee to do oversight hearings on this  
6 proposed guidance. Whether we'll be  
7 successful in that, I don't know. It is a  
8 strange issue that in order for -- EPA has  
9 proposed -- the last proposal I saw was  
10 that they were going to take federal grant  
11 money away from states who had imposed fees  
12 and give it to states to encourage them to  
13 impose fees. Which is the strangest  
14 thinking I've run across in my time in  
15 government.

16 So if we are -- if we have a -- I

17 think inevitably what will happen is that  
18 if you are forced to do 100 percent fee  
19 making, that means you will lose your  
20 federal money. There is no need for the  
21 federal money. So the burden for the  
22 operation of the NPDES program in Oklahoma  
23 -- the water pollution control program will  
24 fall to communities and to industries. And  
25 it s my philosophical belief that if you re

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1 going to operate federal programs, the  
2 federal government ought to be involved in  
3 that in both (inaudible).

4 They are more than happy to give you  
5 guidance on how to operate those programs,  
6 and they should be involved significantly  
7 in the funding also.

8 MR. JOHNSTON: Amen.

9 MR. THOMPSON: But we ll see what  
10 happens.

11 MR. MASON: Is there any public

12 questions for Craig or any other Board

13 questions?

14 MR. JOHNSTON: I move for

15 approval.

16 MR. GRIESEL: Second.

17 MR. MASON: Motion from Jerry,

18 second from David. Any Board discussion?

19 MS. BRUCE: Ms. Cantrell.

20 MS. CANTRELL: Yes.

21 MS. BRUCE: Mr. Cassidy.

22 MR. CASSIDY: Yes.

23 MS. BRUCE: Mr. Coffman.

24 MR. COFFMAN: Yes.

25 MS. BRUCE: Mr. Drake.

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1 MR. DRAKE: Yes.

2 MS. BRUCE: Mr. Griesel.

3 MR. GRIESEL: Yes.

4 MS. BRUCE: Mr. Johnston.

5 MR. JOHNSTON: Yes.

6 MS. BRUCE: Mr. Mason.

7 MR. MASON: Yes.  
8 MS. BRUCE: Ms. Rose.  
9 MS. ROSE: Yes.  
10 MS. BRUCE: Ms. Savage.  
11 MS. SAVAGE: Yes.  
12 MS. BRUCE: Mr. Sublette.  
13 MR. SUBLETTE: Yes.  
14 MS. BRUCE: Mr. Wuerflein.  
15 MR. WUERFLEIN: Yes.  
16 MS. BRUCE: Motion passed.  
17 MR. THOMPSON: Thank you.  
18 (End of proceedings)

19  
20  
21  
22  
23  
24  
25

2                    C E R T I F I C A T E

3 STATE OF OKLAHOMA    )

4                            )    ss:

5 COUNTY OF OKLAHOMA    )

6

7            I, CHRISTY A. MYERS, Certified

8 Shorthand Reporter in and for the State of

9 Oklahoma, do hereby certify that the above

10 proceeding is the truth, the whole truth,

11 and nothing but the truth; that the

12 foregoing proceeding was taken by me in

13 shorthand and thereafter transcribed under

14 my direction; that said proceeding was

15 taken on the 14th day of November, 2006, at

16 Tulsa, Oklahoma; and that I am neither

17 attorney for nor relative of any of said

18 parties, nor otherwise interested in said

19 action.

20            IN WITNESS WHEREOF, I have hereunto

21 set my hand and official seal on this, the

22 5th day of December, 2006.

23

24

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

25