

MINUTES
ENVIRONMENTAL QUALITY BOARD
February 23, 2007
Association of County Commissioners
429 NE 50th
Oklahoma City, OK

Approved by EQB
August 21, 2007

Notice of Public Meeting The Environmental Quality Board convened for a regular meeting at 9:30 a.m. February 23, 2007 at the Association of County Commissioners Ballroom. 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 November 30, 2006. The agenda was mailed to interested parties on February 9, 2007 and was posted on February 22, 2007 at ACCO 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
Jack Coffman
Bob Drake
Jennifer Galvin
David Griesel
Jerry Johnston
Sandra Rose
Terri Savage
Kerry Sublette
Richard Wuerflein
Steve Mason

MEMBERS ABSENT

Mike Cassidy
Tony Dark

Steve Thompson, 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

OTHERS PRESENT

Ellen Phillips, Assistant Attorney General
Christy Myers, Court Reporter

DEQ STAFF PRESENT

Myrna Bruce, Secretary, Board & Councils
Jamie Fannin, Administrative Services
Skylar McElhaney, Executive Director's Office
Matt Paque, AQD Legal
Don Maisch, WQD Legal
Pam Dizikes, LPD Legal
Mista Turner-Burgess, ECLS Legal

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 November 14, 2006 Regular Meeting. Mr. Johnston made the motion to approve as presented and Ms. Rose made the second. Roll call as follows with motion passing.

See transcript pages 5-6

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Kerry Sublette	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes

Election of Officers Mr. Mason called for motion to elect new officers for Calendar Year 2007. Mr. Johnston nominated Jennifer Galvin as the Chair. Mr. Coffman seconded and Mr. Drake moved that nominations cease.

See transcript pages 6-7

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Kerry Sublette	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes

Dr. Galvin presented Mr. Mason with a plaque of appreciation and thanked Mr. Mason for his efforts as the chairman and for his continued efforts on the Board.

Dr. Galvin called for nominations for Vice-Chair. Mr. Drake nominated Brita Cantrell. Mr. Johnston made the second. Mr. Drake moved that nominations cease with acclamation with Mr. Coffman making that second.

See transcript pages 8-9

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Kerry Sublette	Yes
Jerry Johnston	Yes	Richard Wuerflein	Yes

Rulemaking -- OAC 252:4 Rules of Practice and Procedure Mr. Jimmy Givens, DEQ General Counsel, advised that proposed amendments would implement applicable portions of the United States Environmental Protection Agency’s Cross Media Electronic Reporting Rule (CROMERR). The CROMERR requirements establish and implement the process for electronic document receiving systems operated by states with federally delegated programs and would make electronic submittals as valid and enforceable as paper documents. Mr. Givens pointed out that the DEQ is required to submit an application to EPA by October 13, 2007 for approval of its CROMERR-compliant electronic document receiving system. He stated that this rule had not been before a Council because it does not relate to a particular program. He mentioned that comments had been received from the Environmental Federation of Oklahoma and Mid-Continent Oil and Gas Association. Mr. Givens and staff fielded questions from the Board and public.

Ms. Cantrell moved to amend part 252:4-17-4 part C, verification, to add the words ‘and authority’ following the identity making the sentence read ‘the identity and authority of each individual submitting an electronic signature agreement shall be verified by the DEQ’. Mr. Coffman seconded. Dr. Galvin called for a vote on Ms. Cantrell’s motion to amend the rule.

See transcript pages 10-35

Brita Cantrell	Yes	Steve Mason	Yes
Jack Coffman	Yes	Sandra Rose	Yes
Bob Drake	Yes	Terri Savage	Yes
Jennifer Galvin	Yes	Kerry Sublette	Yes
David Giesel	Yes	Richard Wuerflein	Yes
Jerry Johnston	Yes		

Mr. Wuerflein was concerned that there was a possible need to amend Appendix E to have a supervisor line on that form. With further discussion, Mr. Wuerflein’s issue was clarified and no further amendment was necessary. Mr. Johnston moved to approve the rule as amended and Mr. Coffman made the second.

See transcript pages 36-39

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

Rulemaking – OAC 252:210 Highway Spill Remediation Mr. Bob Kennedy, Vice-Chair of the Hazardous Waste Management Advisory Council (HWMAC), advised that the new Chapter 210 would implement the requirements of Senate Bill 1938 passed by the Legislature during the 2006 session which created the Oklahoma Highway Remediation Cleanup Services Act. He pointed out that the only substantive differences from previously adopted emergency rules are the addition of a \$100 late fee and a \$100 reinstatement fee. Mr. Kennedy related that the Act gives DEQ the authority to license, supervise, govern, and regulate highway remediation and cleanup services and highway remediation and cleanup service operators in the state of Oklahoma. He reminded that the emergency rules for Chapter 210 were passed by the Board at the November 14, 2006 meeting.

Ms. Savage mentioned that this rulemaking was a legislative mandate. Mr. Johnston agreed that there was no choice but to approve the mandate and made the motion to approve as presented. Mr. Drake made the second.

See transcript pages 39-45

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

Rulemaking -- OAC 252:300 Laboratory Accreditation Mr. Ken Crawford, Vice-Chair of the Laboratory Services Advisory Council (LSAC) advised that these rules would implement the DEQ's program for accreditation of environmental laboratories. Laboratories accredited by the DEQ are required to use EPA approved methodologies, or methods specifically approved by the DEQ. As the EPA or the Board promulgates new rules, methodologies, or quality assurance/quality control requirements, accredited laboratories have to incorporate these procedures for all accredited analytes. The proposal includes a new rule and a new Appendix for additional methods and additional analytes, which would set forth additional accepted methods for laboratory toxicity tests with freshwater mussels and determination of perchlorate in soils; and would include the laboratory accreditation for both perchlorate and toxicity testing in freshwater mussels. Minor cosmetic changes are proposed to change the tag line of the rules.

Dr. Galvin called for questions or comments from Board and the public. Ms. Savage said that she appreciated that perchlorate is on the radar screen. Mr. Mason moved for approval and Mr. Griesel made the second.

See transcript pages 46-51

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

Rulemaking - OAC 252:410 Radiation Management Mr. Steve Woods, Vice-Chair of the Radiation Management Advisory Council (RMAC) advised that proposed amendments included lowering the reciprocity fees paid by service providers to bring them more in line with Agency costs to administer the program. A fee of \$1,000 is added for processing requests to modify an approval by adding sites, if received less than three days before the work is to be performed. He added that there had been no controversy or opposition for this amendment. Mr. Woods noted that the amendment also includes reciprocity for other states licensed for temporary operations in Oklahoma and that a year ago a \$1,000 extra fee was adopted for reciprocity with less than three days notice. Mr. Griesel made a motion to approve the proposal and Mr. Coffman made the second.

See transcript pages 51-54

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

Rulemaking – OAC 252:606 Oklahoma Pollutant Discharge Elimination System (OPDES) Standards Mr. Michel Paque, Member, Water Quality Management Advisory Council (WQMAC) advised that the proposal updates the adoption of the federal Phase II rules concerning cooling water intakes for power plants and updates the incorporation by reference of federal regulations from July 1, 2005 to July 1, 2006. Mr. Paque added that no comments had been received and that the WQMAC had voted unanimously to recommend the changes for permanent adoption. Mr. Coffman moved to adopt as presented and Ms. Savage made the second.

See transcript pages 54-57

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

Rulemaking – OAC 252:611 General Water Quality Mr. Michel Paque, Member, WQMAC, advised that the proposed amendments would update its incorporation by reference of federal regulations from July 1, 2005 to July 1, 2006. He added that no comments were received by the Department during the comment period or at the WQMAC meeting. The WQMAC voted unanimously to recommend that the Board approve the changes to Chapter 611. Mr. Mason moved for approval as presented and Mr. Griesel made the second.

See transcript pages 57-59

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

Rulemaking – OAC 252:616 Industrial Wastewater Systems Mr. Michel Paque, Member, Water Quality Management Advisory Council advised that this proposal would amend the definition of tank system to include above-ground storage tanks that contain industrial wastewater or sludge; and the definition of waste class to include industrial sludge. Also, permitting and closure requirements for certain Class III impoundments would be revised to provide that if the impoundments are designed according to the requirements of new Appendix D and/or closed pursuant to the requirements of new Appendix E, then certification by an Oklahoma registered professional engineer is not necessary for the design, construction, or closure. Other amendments require above-ground tank systems to have secondary containment, revise industrial sludge requirements to meet the requirements of state statute concerning sludge management plans and heavy metals, and clarify language. Mr. Paque pointed out that this rulemaking was heard at the WQMAC regular meeting in addition to several committee meetings held to discuss the new recommendations to the Appendices. He said that comments had been received from Georgia-Pacific and OG&E and had already been taken into consideration. He added that Council had voted unanimously to recommend that the Board approve these changes as amended.

Because several questions were raised by the Board members, Mr. Johnston recommended that this rulemaking be remanded back to the Council and Mr. Coffman seconded. Mr. Don Maisch, DEQ attorney, reiterated the motion noting that the discussion was for the Board to remand back to the Council the change in the rule in 616-9-3(4) and the proposed language change in 616-1-2 concerning the definition of the term “tank system” adding that the other changes in the Chapter would go forward.

Mr. Steve Thompson agreed that those two things needed to be worked on but added his concern that there is justification for expanding our regulated communities, how much larger will that expansion be into the regulated community, and the number of unknown AST tank owners that will be regulated. Mr. Maisch explained that there will be a certain expansion to the regulated community and that Dr. Galvin has agreed to work with the Agency to try to develop rules that would make sure that we would expand only in those limited spaces where necessary noting that after that further work is done, we may find that there is no expansion necessary.

Ms. Ellen Phillips, Office of the Attorney General, asked for clarification that the motion would remand section 616-1-2 as well as section 616-9-3. Mr. Johnston agreed that his original motion was that the tank system definition falls within section 616-1-2 and would remand the entire section, not just a definition. Mr. Coffman's second to the original motion held. Hearing no further comments, Ms. Galvin called for a vote.

See transcript pages 59-75

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

Dr. Galvin then advised that the vote was only to remand portions of the rule and that a motion was required to approve the rest of the proposed rulemaking. Mr. Coffman moved for adoption of Chapter 616 except for those items that were remanded. Mr. Wuerflein made the second.

See transcript pages 76-77

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

Rulemaking - OAC 252:623 Pre-Treatment for Central Treatment Trusts Mr. Michel Paque, Member, WQMAC, stated that the proposal amended rules concerning Central Treatment Trusts to bring the rules into compliance with federal regulatory requirements, update the incorporation by reference date to July 1, 2006; and make other clean-up language changes. He noted that no comments were received during the comment period nor were there any comments presented by the public at the Council meeting; and that the WQMAC had voted unanimously to recommend the changes to the Board for permanent adoption. Mr. Griesel made motion for adoption and Mr. Johnston made the second.

See transcript pages 77-80

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

Rulemaking - OAC 252:626 Public Water Supply Construction Standards Mr. Michel Paque, Member, WQMAC, stated that the proposed amendment would increase the fees charged to Public Water Supplies for new and amended construction permit applications. He noted that Agency-wide workload evaluations found that the fees being collected for construction permits was not sufficient to cover the costs to conduct permit application review and evaluation. To evaluate the possibility of increasing fees, the DEQ put together a committee which consisted of members from the DEQ, the Oklahoma Municipal League, the Oklahoma Rural Water Association, the Oklahoma Department of Commerce, the Small Business Regulatory Review Committee, and the Community Resources Group. After meeting on several occasions, the group reached consensus that the public water supply permitting fee rules should be reviewed every five years, with any fee changes made effective on July 1, 2007 and would stay in effect through June 30, 2012. That committee then undertook to adjust the 1993 fees based on inflation from that day forward. Based on the committee's findings, it was determined that the construction

and permitting fees for public water supplies are proposed to be raised based on the rate of inflation. Mr. Paque added that no comments were received during the comment period nor were there any comments heard by members of the public at the Council meeting. The Council voted unanimously to recommend to the Board to these changes as proposed. Mr. Mason moved for approval and Mr. Griesel made the second.

See transcript pages 80-84

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

Rulemaking - OAC 252:631 Public Water Supply Operation Mr. Michel Paque, Member, WQMAC advised that the proposal update the incorporation by reference of federal regulations from July 1, 2005 to July 1, 2006 except for the federal Stage 2 Disinfectants and Disinfection Byproducts Rule and Long Term 2 Enhanced Surface Water Treatment Rule. Mr. Paque added that no comments were received concerning these proposed changes and that the Council had voted unanimously to recommend to the Board approval of the changes to Chapter 631. Staff clarified Board's concerns as to what was to be excluded and whether cities in Oklahoma would meet these requirements. Following questions and discussion, Dr. Galvin called for motion. Mr. Coffman made the motion for approval and Mr. Johnston made the second.

See transcript pages 84-91

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

Rulemaking - OAC 252:690 Water Quality Standards Implementation Mr. Michel Paque, Member, WQMAC, advised that proposed amendments updates the adoption by reference of federal rules from July 1, 2005 to July 1, 2006; including adoption of the new Phase II rules concerning cooling water intakes for power plants, how to characterize reasonable potential for toxicity; monitoring frequencies for ammonia; adding EPA approved tests, testing requirements, test failure notification, retest requirements, testing frequency, testing reductions and trial periods for whole effluent toxicity. Additional changes explained how the DEQ would deal with unmeasurable levels of a parameter which is at or below and MQL, from 1/2 of the detection limit to Robust or ROS and testing frequency increases and/or reductions for parameters other than Whole Effluent Toxicity. Mr. Paque noted that several comments were received at their Council meeting and these were considered in the proposal. He noted that the Council voted unanimously to recommend permanent adoption of these changes to the Board as amended. Dr. Galvin called for comments or questions from the Board. Ms. Savage commended the Council and staff for the enormous effort that led to today's proposal. Mr. Johnston moved for approval as presented and Mr. Griesel made the second. Mr. Maisch addressed Mr. Wuerflein's concern about an error in the title and it was determined that this was a clerical error and no new amendment and vote would be necessary.

See transcript pages 91-97

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

Rulemaking - OAC 252:710 Waterworks and Wastewater Works Operator Certification Mr. Arnold Miller, Chair, Waterworks and Wastewater Works Advisory Council (WWWAC) stated that the proposal would implement requirements set forth in Senate Bill 1293 (2006), which was codified at 59 O.S. § 1118. Mr. Miller mentioned that definitions had been amended to reflect the addition of the new provisions including requirements for operators that provide services to multiple facilities and that clarification language was added to Appendix A. He added that the only comment received at the WWWAC meeting was from the Rural Water Association in favor of the proposed rule noting that the Council had voted unanimously to recommend permanent approval of the changes to Chapter 710. Hearing no questions or comments, Dr. Galvin called for a motion. Mr. Drake moved for adoption and Mr. Griesel made the second.

See transcript pages 97-100

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

Executive Director's Report

- Mr. Thompson called upon Mr. Givens for information regarding the scheduled June 19 Board meeting in Ada. Mr. Givens advised that recurring business could generally be taken care of in three meetings; and at this point, a need has not been identified to have the summer meeting. Staff recommended not to plan to have the June 19 meeting; but would make the final decision closer to June.
- Mr. Thompson provided an update on Craig Kennamer's health condition.
- Mr. Thompson and Mr. Matt Paque, AQD Legal, provided information regarding DEQ's involvement in the TXU proposal for eighteen new power plants in Texas.
- Mr. Thompson thanked the Board and Council members for their extraordinary efforts and reminded the Board to attend Council meetings of their choice whenever possible.
- Mr. Thompson advised that Shellie Chard-McClary has been involved with hearings on EPA's proposal for a rule which encourages 100% fee funding for NPDES program.
- Mr. Thompson provided a handout of the legislative bills and highlighted those of interest.

New Business None

Adjournment The meeting adjourned at 12:00 with a Public Forum following.

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DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
OF THE ENVIRONMENTAL QUALITY BOARD
REGULAR MEETING
HELD ON FEBRUARY 23, 2007, AT 9:30 A.M.
IN OKLAHOMA CITY, OKLAHOMA

* * * * *

MYERS REPORTING SERVICE
Christy Myers, CSR
c_myers@cox.net

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MEMBERS OF THE COUNCIL

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BRITA CANTRELL - MEMBER

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MIKE CASSIDY - MEMBER

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JACK COFFMAN - MEMBER

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TONY DARK - MEMBER

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BOB DRAKE - MEMBER

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DR. GALVIN - MEMBER

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DAVID GRIESEL - MEMBER

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JERRY JOHNSTON - MEMBER

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STEVE MASON - MEMBER

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SANDRA ROSE - MEMBER

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TERRI SAVAGE - MEMBER

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DR. SUBLETTE - MEMBER

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RICHARD WUERFLEIN - MEMBER

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STAFF MEMBERS

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STEVE THOMPSON - EXECUTIVE DIRECTOR

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JIMMY GIVENS - LEGAL

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WENDY CAPERTON - EXECUTIVE OFFIC

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SCOTT THOMPSON - LAND PROTECTION

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GARY COLINS - ENVIRONMENTAL COMPLAINTS

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JON CRAIG - WATER QUALITY DIVISION

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ELLEN BUSSERT - ASD

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JAMIE FANNIN - ASD

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MYRNA BRUCE - SECRETARY

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PROCEEDINGS

MR. MASON: Good morning. My name is Steve Mason and for a few more moments I'm the Chairman of the Oklahoma Department of Environmental Quality Board.

The February 23, 2007 regular meeting of the Environmental Quality Board has been called according to the Oklahoma Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes.

Notice was filed with the Secretary of State on November 30, 2006. Agendas were mailed to interested parties on February 12, 2007 and posted on February 21, 2007 at this facility, 429 Northeast 50th, Oklahoma City and at the Department of Environmental Quality, 707 North Robinson, Oklahoma City.

Only matters appearing on the posted agenda may be considered. If this meeting is continued or reconvened we must announce today the date, time, and place of the continued meeting and the agenda for such

1 continuation will remain the same as
2 today s agenda.

3 Myrna, let's see who's here.

4 MS. BRUCE: Good morning.

5 Ms. Cantrell.

6 MS. CANTRELL: Here.

7 MS. BRUCE: Mr. Cassidy is
8 absent. Mr. Coffman.

9 MR. COFFMAN: Here.

10 MS. BRUCE: Mr. Dark is absent.

11 Mr. Drake.

12 MR. DRAKE: Here.

13 MS. BRUCE: Dr. Galvin.

14 DR. GALVIN: Here.

15 MS. BRUCE: Mr. Griesel is on his
16 way. Mr. Johnston.

17 MR. JOHNSTON: Here.

18 MS. BRUCE: Mr. Mason.

19 MR. MASON: Here.

20 MS. BRUCE: Ms. Rose.

21 MS. ROSE: Here.

22 MS. BRUCE: Ms. Savage.

23 MS. SAVAGE: Here.

24 MS. BRUCE: Dr. Sublette.

25 DR. SUBLETTE: Here.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Here.

3 MS. BRUCE: And we do have a
4 quorum.

5 MR. MASON: Thank you, Myrna.

6 The next Item is Approval of Minutes of our
7 November 14, 2006 regular meeting.

8 MR. JOHNSTON: Move to approve.

9 MS. ROSE: Second.

10 MR. MASON: I have a motion from
11 Jerry and a second from Sandra. Is there
12 any discussion? Can we vote, please,
13 Myrna?

14 MS. BRUCE: Ms. Cantrell.

15 MS. CANTRELL: Yes.

16 MS. BRUCE: Mr. Coffman.

17 MR. COFFMAN: Yes.

18 MS. BRUCE: Mr. Drake.

19 MR. DRAKE: Yes.

20 MS. BRUCE: Dr. Galvin.

21 DR. GALVIN: Yes.

22 MS. BRUCE: Mr. Johnston.

23 MR. JOHNSTON: Yes.

24 MS. BRUCE: Mr. Mason.

25 MR. MASON: Yes.

1 MS. BRUCE: Ms. Rose.

2 MS. ROSE: Yes.

3 MS. BRUCE: Ms. Savage.

4 MS. SAVAGE: Yes.

5 MS. BRUCE: Dr. Sublette.

6 DR. SUBLETTE: Yes.

7 MS. BRUCE: Mr. Wuerflein.

8 MR. WUERFLEIN: Yes.

9 MS. BRUCE: Motion passed.

10 MR. MASON: Thank you. Item 4 is

11 the election of officers. We need to

12 figure out who our officers are for the

13 next year or so. Any suggestions?

14 MR. JOHNSTON: I would move that

15 Jennifer Galvin be moved up to Chair.

16 MR. COFFMAN: Second.

17 MR. MASON: And with a motion

18 from Jerry and I think a second from Jack

19 for Jennifer to become Chairman.

20 MR. DRAKE: I move nominations

21 cease and we elect by acclamation.

22 MR. MASON: All right. Can we do

23 that, please.

24 MS. BRUCE: Ms. Cantrell.

25 MS. CANTRELL: Yes.

1 MS. BRUCE: Mr. Coffman.
2 MR. COFFMAN: Yes.
3 MS. BRUCE: Mr. Drake.
4 MR. DRAKE: Yes.
5 MS. BRUCE: Dr. Galvin.
6 DR. GALVIN: Yes.
7 MS. BRUCE: Mr. Johnston.
8 MR. JOHNSTON: Yes.
9 MS. BRUCE: Mr. Mason.
10 MR. MASON: Yes.
11 MS. BRUCE: Ms. Rose.
12 MS. ROSE: Yes.
13 MS. BRUCE: Ms. Savage.
14 MS. SAVAGE: Yes.
15 MS. BRUCE: Dr. Sublette.
16 DR. SUBLETTE: Yes.
17 MS. BRUCE: Mr. Wuerflein.
18 MR. WUERFLEIN: Yes.
19 MS. BRUCE: Motion passed.
20 DR. GALVIN: Good Morning. I
21 don't know if everyone can hear me but we'd
22 like to recognize Steve for -- the Board
23 would like to thank Steve for his efforts
24 and continued efforts. Certainly I speak
25 for everyone on the Board to tell you

1 thanks. We all represent, too, the people
2 of Oklahoma and we work for and on their
3 behalf. So as a representative of the
4 State of Oklahoma, I thank you, Steve.

5 This plaque says in appreciation to
6 Steve Mason for dedicated service.
7 Environmental Quality Board Chairman, 2005-
8 2006.

9 MR. MASON: Thank you. First
10 I've got to say my wife was visiting with
11 me last night and she commented how much
12 she enjoys this Board. And I think she's
13 representative of it's a great group of
14 people that are nice to be with. And I
15 think we are interested in working for the
16 State. Thanks for letting me be your
17 Chairman.

18 DR. GALVIN: I think the floor is
19 now open for election of a Vice-Chair.

20 MR. DRAKE: I'd like to nominate
21 Brita Cantrell.

22 MR. JOHNSTON: Second that.

23 DR. GALVIN: Shall we call for a
24 vote of the Board? Or is there any other
25 discussion by the Board?

1 MR. DRAKE: Move nominations
2 cease and we elect by acclamation. Call
3 for a vote.

4 MR. COFFMAN: Second.

5 DR. GALVIN: Thank you.

6 MS. BRUCE: Ms. Cantrell.

7 MS. CANTRELL: Yes.

8 MS. BRUCE: Mr. Coffman.

9 MR. COFFMAN: Yes.

10 MS. BRUCE: Mr. Drake.

11 MR. DRAKE: Yes.

12 MS. BRUCE: Dr. Galvin.

13 DR. GALVIN: Yes.

14 MS. BRUCE: Mr. Johnston.

15 MR. JOHNSTON: Yes.

16 MS. BRUCE: Mr. Mason.

17 MR. MASON: Yes.

18 MS. BRUCE: Ms. Rose.

19 MS. ROSE: Yes.

20 MS. BRUCE: Ms. Savage.

21 MS. SAVAGE: Yes.

22 MS. BRUCE: Dr. Sublette.

23 DR. SUBLETTE: Yes.

24 MS. BRUCE: Mr. Wuerflein.

25 MR. WUERFLEIN: Yes.

1 MS. BRUCE: Motion passed.

2 DR. GALVIN: Thank you. All
3 right.

4 We are on Item 5, rulemaking; Rules
5 of Practice and Procedure. And we have a
6 presentation by Jimmy Givens.

7 MR. GIVENS: Madam Chair, Members
8 of the Board, Members of the public, first
9 rulemaking item on our Agenda today related
10 to what is called a cross-media electronic
11 reporting rule. I think Steve mentioned
12 this at our November meeting that this
13 would be coming before you at this
14 particular board meeting. You know we
15 bring you a lot of things from time-to-time
16 that we say this is what EPA is requiring
17 us to do. Well, this is another one of
18 those things. It's a little bit different
19 from what you may be used to, in the sense
20 that normally what we bring to you are
21 rules that relate to some particular
22 environmental program, maybe a new standard
23 for cleanup or a new requirement for
24 municipalities to test their water or
25 whatever the case may be.

1 This is different in that it cuts
2 across program lines and it's not to set an
3 environmental standard, rather it's to
4 establish a process. The process is how we
5 go about accepting electronic submittals
6 that are required under federally delegated
7 programs.

8 Now I won't get into great detail
9 about this for two reasons; first of all it
10 would take too long and more importantly I
11 don't understand it very well. But the
12 gist of it is, we're saying that this
13 rulemaking will implement what EPA is
14 asking us to do with respect to receiving
15 electronic submittals.

16 There are a couple of things I need
17 to highlight, I think.

18 One is we are trying to accomplish
19 making electronic submittals as valid and
20 enforceable as paper documents. That will
21 really boil down what this is supposed to
22 do.

23 The second thing and maybe even more
24 important, so that there is no confusion is
25 that this does not require anybody to

1 submit electronically versus submitting via
2 paper documents. It simply says that if
3 you're going to use electronic submittals,
4 and that is a fairly popular means nowadays
5 both obviously on the part of DEQ it
6 simplifies our lives in several respects,
7 but also as a part of industry, it makes it
8 much simpler for those who are equipped to
9 do so, to submit documents electronically
10 as opposed to filling out paper documents.

11

12 What this does is, say if we are
13 going to receive electronic documents in
14 order to meet program requirements of
15 federal programs, then this is the way it
16 has to be done; we have to meet these
17 criteria in order to make them valid.

18 One other thing that I might point
19 out is that in order to do that there
20 really are, I think, two components. One
21 is we have to be able to establish who it
22 is that is making the electronic submittal;
23 and the second thing is whoever is making
24 the electronic submittal, we have to make
25 sure that that person has the authority

1 they claim to have to make it on behalf of
2 whatever company that they're submitting it
3 for.

4 If you take this set of rules and
5 you kind of boil it down to this essence, I
6 think that's what it does. It helps us
7 establish who is doing the submittal and
8 establish that they really have the
9 authority that they claim to have.

10 Now with that, just by way of brief
11 background, what I think I should point you
12 to is what should be at your place. It has
13 a cover-sheet on it in bold type. It says
14 "Supplemental information on proposed
15 Chapter 4, cross media electronic reporting
16 rule amendments." And the reason you have
17 that separate from your Board packet that
18 was mailed out is simply because we
19 received -- there are two sets of comments
20 that we received on this, after we mailed
21 the Board packet out. So we had to provide
22 those to you separately.

23 Now of course since this is Chapter
24 4 and it does not relate to a particular
25 program it has not been through the Council

1 and that's why you're seeing the comments
2 instead of the Council, we got them before
3 they got to the Board.

4 In that separate packet you will
5 find, first of all, the set of comments
6 from the Environmental Federation of
7 Oklahoma,

8 Second, a single sheet with a
9 couple of comments from Mid-Continent Oil
10 and Gas Association.

11 Under that a written response to
12 each of those comments by the Department of
13 Environmental Quality. And then under
14 that, is another copy of the text to the
15 proposed rules, except you will notice
16 there are a few places where we have some
17 underlining and some shading.

18 What the underlining and shading do
19 is show you where we have agreed to make
20 changes based upon comments that we have
21 received in the last couple of weeks. So
22 it may be simpler actually to work from
23 that underlined and shaded text. That is,
24 in fact, what I would propose that you
25 adopt today because it incorporates most of

1 what was requested in the comments that
2 were submitted.

3 And the last thing I would say
4 before I open it up for any questions or
5 comments you may have, is that for the most
6 part we -- two of the comments that were
7 made, we incorporated them into this new
8 document. There are only about three or
9 four that we felt like we should not make.

10 The two comments that Mid-Continent
11 Oil and Gas made, we did not make a change
12 to the text based on those comments. The
13 main reason is that what they were
14 requesting, we simply cannot do and meet
15 our obligation under CROMERR. So we were
16 not able to accommodate what Mid-Continent
17 Oil and Gas asked for.

18 Most of the comments the EFO
19 submitted were in the nature of
20 wordsmithing; and we made the majority of
21 those changes.

22 There were, I think, two or three
23 that we did not make. I'll just briefly
24 highlight those.

25 If you look on the Response to

1 Comments, Response Number 6 and Response
2 Number 8 go together, there was a
3 suggestion that we change some language.
4 We did not because the language that we had
5 used was actually a "term of art" within
6 information technology.

7 Comment 12, there was a request to
8 add a sentence that simply points out that
9 documents have to meet normal evidence
10 requirements in order to be used. We think
11 that that is established by law without
12 cluttering up this particular rulemaking by
13 saying that.

14 Comment 13, there was a request that
15 we add some -- or change the language to
16 say that we will be notified not when
17 someone suspects that their submittal
18 system has been compromised, but when they
19 actually discover it for sure.

20 We believe that it is important for
21 both DEQ and for the submittor to know
22 right up front if there is any question so
23 we can address that. So we did not change
24 that to an actual discovery, but we still
25 would like to know if there is suspicion

1 that the integrity of the system is being
2 compromised.

3 Now I don't think it's necessary,
4 probably, to go through all the rest of
5 those one-by-one, I don't know if there are
6 representatives of EFO or Mid-Continental
7 here today. As I say, we tried to do what
8 we felt like we could do to accommodate
9 their requests and with three or four
10 exceptions, we have made those changes.

11 With that, I will stop and take any
12 questions that you have and I will answer
13 them as best I can. If I can't perhaps
14 Martha Penisten, Deputy General Counsel,
15 who worked on this more closely than I did,
16 can help me answer it.

17 DR. GALVIN: Thank you, Jimmy.
18 Are there any questions from the Board?

19 MR. COFFMAN: Jimmy, question.
20 Have you got the software and the system is
21 in place to be able to implement this?

22 MR. GIVENS: It will be. I'm not
23 sure if it's already in place yet but it
24 will be by the time that this would be
25 implemented.

1

2 Martha, do you know?

3 MS. PENISTEN: Once the Board

4 would approve it if they are, then our

5 technical staff will start work on

6 implementing the system.

7 MR. GIVENS: The IT staff has

8 been involved in this entire process. They

9 know what is coming and what will be

10 required.

11 DR. GALVIN: Any other questions

12 from the Board?

13 MR. MASON: Jimmy, Mid-Continent,

14 their first question about how the people

15 in the area are currently submitting

16 information. You all -- we can't continue

17 with the (inaudible)?

18 MR. GIVENS: We cannot

19 accommodate that particular request because

20 that is part of what CROMERR is requiring,

21 that we ratchet it up a level, if you will,

22 to make sure there is an individual that we

23 can identify as being a particular person

24 making deal with and what I understand is

25 this would be saying we would like to be

1 able to pass around the password if you
2 will and CROMERR just won't allow that.

3 DR. GALVIN: Any other questions
4 from the Board? Questions from the public?

5 MR. GROUND: I've got a question
6 for Jimmy. I'm Bud Ground from Public
7 Service Company of Oklahoma. In that same
8 line, I had a question. Since that is not
9 allowed to share a password, and I really
10 just got the new rule today, are we then
11 allowed to submit multiple people to get
12 passwords to submit electronic reports? Is
13 that how it's going to be?

14 MR. THOMPSON: Martha, come up.
15 The public has to come forward, so does the
16 staff.

17 MS. PENSITEN: The question is,
18 can you have multiple people --

19 MR. GROUND: That have signatory
20 authority.

21 MS. PENISTEN: Well, we talked
22 about this internally, some at the office,
23 and I don't know that we actually made a
24 decision on that. I think ideally we would
25 like for one person to be the signatory for

1 a company or be the signatory person who
2 submits the report for the company but at
3 the same time I think we realize that may
4 not always be a realistic sort of thing to
5 do; companies may not be able to do that.
6 So maybe different people at the same
7 company are responsible for different areas
8 of regulations so they're going to have the
9 knowledge on a particular signatory report.

10

11 So I think what will end up
12 happening is that there may be multiple
13 authorized individuals from the same
14 company who submit a particular report.

15 MR. THOMPSON: Martha, does the
16 rule accommodate that notion that more than
17 one could?

18 MS. PENISTEN: The rule doesn't
19 even get at that.

20 MR. THOMPSON: Okay.

21 MS. PENISTEN: But you know, we
22 have the electronic signature agreement
23 that's an appendix to the rule, that the
24 authorized individuals use to submit the
25 report to a company will sign. And so if

1 we were going to have multiple people from
2 one company submitting different reports, I
3 think what we would end up doing is having
4 an electronic signature agreement with each
5 of those individuals. Does that make
6 sense?

7 MR. GROUND: Yes, it does. And
8 is this the time that I can make a comment
9 or is this just questions?

10 DR. GALVIN: You can make a
11 comment.

12 MR. GROUND: Okay. I'd like to
13 make one. In that same area, the Public
14 Service Company, being an electric utility,
15 we have multiple plants across the state
16 and what we've done through EPA in our Acid
17 Rain Program is we have a designated
18 representative for the company and there is
19 an alternate designated representative if
20 he is not available and they can actually
21 designate a person that can -- that would
22 have, some what, a signatory authority
23 because some reports are submitted from the
24 power plant, some are submitted centrally
25 or locally. So we actually need that

1 authority that we can have our main person
2 designate someone at a facility to be able
3 to submit certain reports. So that's -- as
4 our comments and for the electric utility,
5 I'm sure that would (inaudible) make it
6 very consistent with the way EPA has done
7 it under the Acid Rain Program. Thank you.

8 DR. GALVIN: Thank you. Any
9 other comments from the public?

10 MS. WORTHEN: Yes, please. My
11 name is Laura Worthen and I'm with the
12 Benham Companies. And my question has to
13 do more with the annual emissions
14 inventories and some of those as a
15 consultant. Right now, many of our clients
16 email us their log-in and password for the
17 Redbud System to complete the emissions
18 inventories and do those. Will this new
19 rule allow for that and how will that work?

20 MS. PENISTEN: I don't know
21 whether I'd be quick to answer that or not.
22 It's kind of a twist that I don't think
23 we've thought about. But just kind of off
24 the top of my head I can see how we might
25 be able to get some sort of authorization

1 from the company you're representing to
2 allow you to be the signatory on the
3 report.

4 MS. WORTHEN: Because right now
5 you have to log onto the system with the
6 company's user name and password, complete
7 the emissions inventory. Some of the
8 companies go in and sign it themselves
9 after they've checked it, some of them have
10 us send it on their behalf after they've
11 checked it. And it just depends on what
12 each environmental manager wants to do. So
13 that's more of the logistics is, is that
14 still going to be allowed or how will they
15 do that, because a lot of them outsource
16 their emissions inventories and some of
17 those types of reporting systems?

18 MS. PENISTEN: Well, what do the
19 industries want you to do is kind of what
20 my question would be, I guess.

21 MS. WORTHEN: Would the rule
22 allow for there to be some type of way to
23 send a password to a consultant who would
24 then be able to (inaudible)?

25 MS. PENISTEN: The rule doesn't

1 address that.

2 MR. THOMPSON: It sounds to me
3 like the rule doesn't address it so it
4 becomes an administrative function. And I
5 think what the Department will have to do
6 is develop policies that make sense for
7 both industry and consultants and us, and
8 yet meets the requirements. So it sounds
9 to me like the answer to the question is on
10 a case-by-case basis, probably, that idea
11 could be accommodated. There is a way
12 probably to accommodate that. But it
13 sounds a bit more like an administrative
14 function than it does a rule function.

15 MS. WORTHEN: Just to make sure
16 that the rule didn't preclude that. That
17 would be a burden on a lot of environmental
18 managers.

19 MR. THOMPSON: My understanding
20 from Martha is that it doesn't address it,
21 so then it would not preclude it. So it
22 gives us some flexibility to look at these
23 issues case-by-case. As long as we can
24 build sufficient security into the system,
25 I think we will be good to go.

1 MS. WORTHEN: Thank you.

2 MR. MASON: Steve, do we think
3 Appendix E in this form as written will
4 allow that flexibility?

5 MR. THOMPSON: I think in just
6 glancing at it, I haven't studied this,
7 Steve, but it would be -- the company could
8 name one or multiple people as an
9 authorized signatory or a consultant even.
10 It appears to me that that could be the
11 case. Now that's just at first flush but I
12 think the answer to your question is yes.
13 Unless you see something that you believe
14 would preclude it.

15 MS. PENISTEN: I think the answer
16 would be yes, it's flexible enough.

17 MR. GIVENS: I guess if I were to
18 follow up on the issues that have been
19 raised, obviously we were able to
20 (inaudible) to something new⁰ like this.
21 There is going to be some kinks that have
22 to be worked out, but I think we get back
23 to the underlying purpose for this rule
24 which is, can't we determine who it is
25 that's making the submittal and can we

1 determine that they have the authority they
2 claim to have. So I believe the answer is
3 we can accommodate all these concerns that
4 have been raised, we'll probably have to go
5 back and think about exactly how we're
6 going to do this as Steve was pointing out,
7 but I think the answer is yes.

8 MR. THOMPSON: That's not to say
9 that there may be situations in which we
10 would not accommodate them. It's going to
11 be a case-by-case administrative decisions.

12 MR. MASON: Jimmy, I have one
13 more question. As the president of a
14 company I am very sensitive who can sign
15 documents for me and commit my resources.
16 So let's say a secretary, just a pure
17 receptionist/secretary fills out this form
18 and submits it, say they have a authority
19 to submit emission inventories; do you all
20 accept her authorization or do you all
21 research if a receptionist can submit
22 emission inventories?

23 MR. GIVENS: Well, there is a
24 mechanism to address that. Martha can
25 explain better than I can. But, yeah,

1 there has to be authority given by the
2 company to say that this person is the
3 right person to do this.

4 MR. MASON: Okay. Where is that
5 on this Appendix E form?

6 MS. PENISTEN: Okay. It's not on
7 the Appendix form and it's not addressed in
8 the rule, rather it's addressed in our
9 application to EPA. And I think that goes
10 more towards some of the administrative
11 aspects of this whole project. But our
12 plan is and what will be part of our
13 application to EPA is that we'll set up our
14 website, we'll have the electronic
15 signature agreement there, people will
16 download it, sign it, notarize it, send it
17 back to the DEQ; then at that point, we
18 will have designated an electronic system
19 administrator who will be responsible for
20 contacting the company official that signs
21 along with the authorized individual. And
22 say that person is you, our administrator
23 will contact you and say we've received
24 this electronic signature agreement signed
25 by your employee. Is that the person you

1 intended to sign this? And then we would
2 also expect to get the hard copy of the
3 fully executed electronic signature
4 agreement back, under cover of letterhead -
5 - of the company letterhead and -- well,
6 and the signatures are also notarized with
7 the other thing.

8 MR. MASON: Let's say our
9 receptionist fills out Appendix E and mails
10 it to you and my name is nowhere on this
11 form. So how would you notify me to see if
12 my receptionist has authority?

13 MR. THOMPSON: If you look at
14 Bullet 7 on the second page; starts with
15 the word "understand." I don't know that
16 this would preclude somebody from doing
17 that. But if they did it, they would do it
18 with the understanding that we're probably
19 going to call somebody to make sure that
20 that person is authorized, which I suspect
21 will become a matter of practice with the
22 Agency. But is there an absolute safeguard
23 against somebody doing that? I don't know
24 what that would be except that we would
25 check. Is that --

1 MS. PENISTEN: Yeah. I mean what
2 precludes your receptionist from submitting
3 a written report now?

4 MR. MASON: I don't think she
5 would submit it. I'm not sure. But I
6 don't think my receptionist would submit a
7 report for emission inventories via as a
8 submitter and sign it with the title of
9 receptionist. I don't think you would
10 accept that report right now. It has to be
11 some sort of corporate officer-type -- Vice
12 President or something.

13 MS. PENISTEN: Well, I guess the
14 electronic signature agreement is written
15 under the assumption, I guess, that those
16 are the people who will be putting
17 themselves forward as the authorized
18 individuals.

19 If there is fraud going on or
20 something that's not supposed to be
21 happening then I don't know what to say
22 about that. The same sort of thing could
23 happen with a paper report. So you would
24 get at it in the same way through
25 enforcement or court action or those kinds

1 of things.

2 MR. GIVENS: You may want to look
3 at the Response to Comment 10, that's sort
4 of a concise explanation on how we envision
5 the process. I'm not sure if it totally
6 answers your question or not.

7 MS. CANTRELL: Jimmy, can I ask
8 you a question that's related to Comment
9 10? On Page 3, under part 252:4-17-4,
10 looking at Part C, Verification. I wonder
11 if the problem might be solved by, in that
12 very first sentence specifying the identity
13 and authority of each individual submitting
14 an electronic signature agreement to be
15 verified by the DEQ. That would give you
16 the structure then with DEQ to put together
17 a program that addresses this verification
18 issue. And I'm thinking a good model might
19 be the way the federal courts do it because
20 they divide their electronic filing system
21 into two categories.

22 One is access and that is done by a
23 code. You can access your case filing or
24 any case filings by a business code that
25 applies to your company. But then the

1 other is the signature verification and
2 that is specific to the individual who, in
3 a sense, enters an appearance to be part of
4 the process. And by putting the authority
5 in that line, I wonder if that doesn't give
6 you the structure at DEQ then to develop
7 something that verifies -- some sort of a
8 program that addresses the authority of the
9 individual to verify by signature.

10 MR. GIVENS: That makes sense. I
11 don't think we'll have any problem with
12 that, but I'm going to have to ask you
13 again exactly where you're referring to
14 because I got lost on the page.

15 MS. CANTRELL: Okay. Well, I'm
16 on Page 3, at the bottom. I'm on Part C,
17 verification. Then the first words in that
18 paragraph are "the identity of each
19 individual." My suggestion was to submit
20 or add the "identity and authority of each
21 individual submitting an electronic
22 signature agreement shall be verified by
23 DEQ." So just adding the words and
24 authority. I don't know if that solves
25 your structural issue but then DEQ could

1 then work from there to develop policies
2 that implement that.

3 MR. GIVENS: I think that makes a
4 lot of sense.

5 DR. GALVIN: Any other comments?
6 Any other comments by the public?

7 MR. BRANECKY: David Branecky
8 with OG Energy Corp. I would just
9 encourage the Board that, we've talked
10 about doing things that the rule doesn't
11 necessarily preclude. I think it would be
12 better if we specifically put it in the
13 rule what is allowed and what's not allowed
14 rather than developing policy, especially,
15 if, you know, we want to have a consistent
16 policy among all divisions of DEQ. I just
17 think it would be better rather than say
18 well, the rule doesn't preclude it, we may
19 or may not do it. Let's put it in the rule
20 what can and can't be done.

21 DR. GALVIN: Thank you. Any
22 other comments from the public? Discussion
23 by the Board?

24 MR. DRAKE: Ms. Chair, where are
25 we? I mean, we've had a discussion on

1 making an amendment, did we make the
2 amendment?

3 DR. GALVIN: I think where we are
4 is we need to ask for a motion based on
5 Brita's recommendation to amend what we
6 have before us.

7 MS. CANTRELL: And then we'll
8 discuss that?

9 DR. GALVIN: Correct.

10 MS. CANTRELL: I move to amend
11 252:4-17-4 Part C, verification, to add the
12 words, and "authority," following the
13 identity.

14 To read: "The identity and authority
15 of each individual submitting an electronic
16 signature agreement shall be verified by
17 the DEQ."

18 MR. COFFMAN: Second.

19 MR. WUERFLEIN: Madam Chair?

20 DR. GALVIN: Yes?

21 MR. WUERFLEIN: I would inquire
22 if we need to amend the exhibit, Appendix
23 E, to have a line for who the supervisor is
24 on that form. I was reviewing this
25 Response 10 that Jim referred to, and it

1 says that the DEQ will contact the
2 individual immediate supervisor as named in
3 the application. And there is no
4 designation who that supervisor is on the
5 applications.

6 DR. GALVIN: Okay. My advice of
7 Counsel here is to act on Brita's motion
8 and seconded motion, to vote on that and
9 then Richard to take yours up.

10 MR. WUERFLEIN: Okay.

11 MR. MASON: May I ask one
12 question?

13 DR. GALVIN: Certainly.

14 MR. MASON: I've got two rules in
15 front of me, what was in my packet and what
16 was handed out this morning. So with that
17 motion, which rule did it cover?

18 DR. GALVIN: Do we have unanimous
19 consent to work from the annotated draft
20 that was at your table today? Do we need a
21 vote?

22 Hearing no objection -- or shall I
23 ask for any objections? Hearing none,
24 we'll work from the annotated version that
25 you found at your table this morning and

1 move forward with Brita's motion that has
2 been seconded. Shall we take a vote?
3 MS. BRUCE: Ms. Cantrell.
4 MS. CANTRELL: Yes.
5 MS. BRUCE: Mr. Coffman.
6 MR. COFFMAN: Yes.
7 MS. BRUCE: Mr. Drake.
8 MR. DRAKE: Yes.
9 MS. BRUCE: Dr. Galvin.
10 DR. GALVIN: 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: Yes.
17 MS. BRUCE: Ms. Rose.
18 MS. ROSE: Yes.
19 MS. BRUCE: Ms. Savage.
20 MS. SAVAGE: Yes.
21 MS. BRUCE: Dr. Sublette.
22 DR. SUBLETTE: Yes.
23 MS. BRUCE: Mr. Wuerflein.
24 MR. WUERFLEIN: Yes.
25 MS. BRUCE: Motion passed.

1 DR. GALVIN: Thank you. Richard,
2 we would like to address your concern.

3 MR. WUERFLEIN: Well, I was going
4 to move, to address Appendix E, to add a
5 line or at least notify who the authorizing
6 or authorized person was who designated the
7 order.

8 DR. GALVIN: I'm sorry, I'll
9 restate that. Point 7, on Page 8 requires
10 the DEQ to contact the immediate supervisor
11 but there is no way of knowing --

12 MR. WUERFLEIN: There is no way
13 of knowing who that supervisor is. Yes.

14 DR. GALVIN: And so the -- are
15 you making a motion?

16 MR. WUERFLEIN: I make a Motion
17 we add on the application a spot that says
18 who the authorizing supervisor is, is the
19 rest of that Bullet 7.

20 MR. COFFMAN: Madam Chair, I
21 think that signature of authorized
22 signatory and official title, is -- this is
23 on the third page of Appendix E -- is that
24 not the line for the person, or is that the
25 --

1 MR. WUERFLEIN: I understood that
2 to be the line of the person getting
3 authorization to use the electronic
4 signatory, not the supervisor or the
5 designated person.

6 MR. COFFMAN: So we need to add
7 two more lines down as the company official
8 and a signatory line for the company
9 official.

10 MR. GIVENS: Madam Chair?

11 DR. GALVIN: Yes?

12 MR. GIVENS: I guess I would
13 refuse to -- if I am reading this
14 correctly, Page 8 is for the leading
15 supervisor or company official with the
16 signature lines.

17 (Multiple Discussions)

18 MR. GIVENS: That's on Page 8
19 next to what we're --

20 DR. GALVIN: And I don't have a
21 copy of what we're addressing.

22 So Richard, am I to understand that
23 it has been resolved?

24 MR. WUERFLEIN: Yes.

25 DR. GALVIN: Are there any other

1 questions or concerns?

2 MR. JOHNSTON: I move to approve.

3 MR. COFFMAN: Second.

4 DR. GALVIN: We have a motion on

5 the floor that's been seconded that we

6 adopt -- which we already have -- Brita's

7 recommendation of the addition and there

8 have been no further motions made.

9 Richard's issue was clarified.

10 MR. WUERFLEIN: We were ready to

11 adopt? We've voted on the amendment and

12 now we're ready to adopt the whole rule.

13 UNIDENTIFIED MALE: We're ready

14 to adopt the rule as amended.

15 DR. GALVIN: All right. And it

16 has been seconded by Jack.

17 MS. BRUCE: Ms. Cantrell.

18 MS. CANTRELL: Yes.

19 MS. BRUCE: Mr. Coffman.

20 MR. COFFMAN: Yes.

21 MS. BRUCE: Mr. Drake.

22 MR. DRAKE: Yes.

23 MS. BRUCE: Dr. Galvin.

24 DR. GALVIN: Yes.

25 MS. BRUCE: Mr. Griesel.

1 MR. GRIESEL: Yes.

2 MS. BRUCE: Mr. Johnston.

3 MR. JOHNSTON: Yes.

4 MS. BRUCE: Mr. Mason.

5 MR. MASON: Yes.

6 MS. BRUCE: Ms. Rose.

7 MS. ROSE: Yes.

8 MS. BRUCE: Ms. Savage.

9 MS. SAVAGE: Yes.

10 MS. BRUCE: Dr. Sublette.

11 DR. SUBLETTE: Yes.

12 MS. BRUCE: Mr. Wuerflein.

13 MR. WUERFLEIN: Yes.

14 MS. BRUCE: Motion passed.

15 MR. GIVENS: Madam Chair.

16 DR. GALVIN: Yes?

17 MR. GIVENS: I just wanted to say

18 that this illustrates two things.

19 One, we should be especially

20 appreciative, as we are, for Councils and

21 we should be especially appreciative of

22 Deputy General Counsels.

23 DR. GALVIN: Thank you, Jimmy.

24 Moving on to our next Agenda Item,

25 Item 6. We have highway spill remediation

1 and we have Bob Kennedy -- not necessarily.
2 We have someone addressing us from the
3 Hazardous Waste Management Advisory
4 Council.

5 MR. KENNEDY: No, I am Bob
6 Kennedy.

7 DR. GALVIN: You are Bob Kennedy?

8 MR. KENNEDY: Yes, I am. I am
9 the Chair of the Hazardous Waste Management
10 Advisory Council. Good morning to
11 everyone. Today we are asking the Board to
12 consider permanent adoption of DEQ's new
13 chapter 210 Highway Spill Remediation. The
14 proposed chapter 210 is to implement the
15 requirements of Senate Bill 1938, passed by
16 the Legislature during the 2006 session
17 which created the Oklahoma Highway
18 Remediation Cleanup Services Act.

19 The Act gives 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 Board passed the emergency rules for
25 Chapter 210 at the November 14, 2006

1 meeting.

2 The rules before you today are
3 identical to those passed at the November
4 Board meeting with the exception of 1-5(c),
5 17(b)(2)(D), and 1-8(3) and (4), which
6 established certain late renewal and
7 reinstatement fees. The Council voted
8 unanimously to approve the permanent
9 Chapter 210 rules at its January 11, 2000
10 meeting.

11 DEQ staff is available to answer any
12 questions the Board or members of the
13 public may have. Thank you.

14 DR. GALVIN: Thank you. Do I
15 hear any questions from the Board?

16 MR. MASON: I have one question,
17 or two questions. How many licenses have
18 we issued under the emergency rule and have
19 we been threatened with a lawsuit yet due
20 to our emergency rule?

21 UNIDENTIFIED MALE: We have --
22 oh, I'm sorry, Gary.

23 MR. COLLINS: Currently we have
24 eight that are licensed but we have two
25 other applications that have been submitted

1 and one of those, I think, is close to
2 approval and the other one we're still
3 waiting on. We're probably going I, the
4 way it looks, but right now we have eight.
5 And no, we haven't been threatened with a
6 lawsuit yet, but who knows.

7 DR. GALVIN: Any other questions
8 from the Board?

9 MS. SAVAGE: I do. For the
10 benefit of the people that don't know the
11 back story on this, last session this was
12 passed -- last Legislative Session, right
13 before the end, this Bill was passed. The
14 Board did pass emergency rules but we
15 really had no choice because the
16 legislature passed this bill and we had no
17 choice because it's not our function to
18 disagree with a bill. And there is a very
19 interesting bit of back story on this piece
20 of legislation and this rule and the reason
21 that Steve was wondering if there had been
22 any lawsuits, because upon reading, even if
23 you're not a lawyer, you kind of can see
24 there is a possibility that this might get
25 in the way of the Intrastate Commerce Act.

1 It's going to be amusing to see how this
2 turns out.

3 And I was wondering -- of course,
4 Steve asked it better, but I was just
5 wondering, has anybody come forward and
6 protested this? I mean we had no choice,
7 we're going to go forward and do what we
8 need to do, but has anyone -- at the last
9 meeting, I mean we had a lot of people show
10 up and we're wondering because there's a
11 lot of things that need to be clarified. I
12 mean just in the minds of not just maybe
13 the Board but the people who -- highway
14 patrolmen, for instance, who come upon a
15 hazardous waste spill at the corner of say,
16 the Kansas and Oklahoma border, who do they
17 call if somebody isn't incorporating the
18 state of Oklahoma?

19 I just think it ought to be on the
20 record today that we're not just going
21 forward because and just passing and rubber
22 stamping something. We do remember, at the
23 time, what we were doing and why we were
24 doing it and this is a legislative mandate.

25 MR. COLLINS: I might say that

1 we've had several public comment
2 opportunities on these rules and at one of
3 those, someone from the Trucker's
4 Association or whatever their group is,
5 indicated they would probably protest that
6 part of the rule that restricts it to
7 opening an Oklahoma corporation and I also
8 know that at least one of the licensed
9 entities has submitted some proposed
10 legislation that would change that part of
11 the statute. I think it will probably
12 change before the Legislative Session is
13 over.

14 MS. SAVAGE: Thank you.

15 DR. GALVIN: Are there any
16 comments from the public? Any further
17 discussion by the Board?

18 MR. JOHNSTON: Since we have no
19 choice I move we approve.

20 MR. DRAKE: I'll second, under
21 protest. I think we've lost some people in
22 my area. We're getting down because of
23 restrictions, it's very difficult to meet
24 some of them. Again, we have no choice. I
25 second it.

1 DR. GALVIN: Yes, sir. Motion
2 has been moved and seconded. Please call
3 the roll.

4 MS. BRUCE: Ms. Cantrell.
5 MS. CANTRELL: Yes.
6 MS. BRUCE: Mr. Coffman.
7 MR. COFFMAN: Yes.
8 MS. BRUCE: Mr. Drake.
9 MR. DRAKE: Yes.
10 MS. BRUCE: Dr. Galvin.
11 DR. GALVIN: Yes.
12 MS. BRUCE: Mr. Griesel.
13 MR. GRIESEL: Yes.
14 MS. BRUCE: Mr. Johnston.
15 MR. JOHNSTON: Yes.
16 MS. BRUCE: Mr. Mason.
17 MR. MASON: Yes.
18 MS. BRUCE: Ms. Rose.
19 MS. ROSE: Yes.
20 MS. BRUCE: Ms. Savage.
21 MS. SAVAGE: Yes.
22 MS. BRUCE: Dr. Sublette.
23 DR. SUBLETTE: Yes.
24 MS. BRUCE: Mr. Wuerflein.
25 MR. WUERFLEIN: Yes.

1 MS. BRUCE: Motion passed.

2 MR. KENNEDY: Thank you very much
3 you guys.

4 DR. GALVIN: Thank you,
5 Mr. Kennedy.

6 Moving on to Item Number 6 on the
7 Agenda, Laboratory Accreditation. We have
8 a presentation by Ken Crawford, who is
9 Vice-Chair of the Laboratory Services
10 Advisory Council.

11 MR. CRAWFORD: Good morning,
12 Madam Chair and Council. My name is
13 Kenneth Crawford and I'm the Vice-Chairman
14 of Laboratory Services Advisory Council.
15 The amendments are proposed to OAC 252:300,
16 the Laboratory Accreditation Rules. The
17 purpose of these rules is to implement the
18 DEQ's program for accreditation of
19 environmental laboratories. Laboratory
20 accreditation is a means to ensure that
21 environmental data is of known and
22 documented quality and, thus, is suitable
23 for use in environmental decision making.

24 Laboratories accredited by the DEQ
25 are required to use EPA approved

1 methodologies, or methods specifically
2 approved by the DEQ. As the EPA or the
3 Board promulgates new rules, methodologies,
4 or quality assurance/quality control
5 requirements, accredited laboratories have
6 to incorporate these procedures for all
7 accredited analytes.

8 Laboratory analyses must be
9 performed by accredited laboratories. As
10 the DEQ Water Quality Division makes
11 changes in requirements for municipalities
12 to perform certain laboratory tests as
13 conditions of their OPDES permits, the
14 laboratory accreditation then must take
15 those tests into account.

16 At the last Board meeting, we asked
17 that you adopt changes to include
18 salmonella and daphnia magna testing.
19 Today, we are asking that you adopt changes
20 to include freshwater mussel toxicity
21 testing and perchlorate sampling.

22 For procedural reasons, we are
23 proposing a new rule and a new appendix for
24 additional methods and additional analytes.
25 We are proposing a new rule 252:300-19-4

1 which sets forth additional accepted
2 methods for laboratory toxicity tests with
3 freshwater mussels and the determination of
4 perchlorate in soils. We are also asking
5 for an amendment to the rule 252:300-21-2
6 to include the laboratory accreditation for
7 both perchlorate and toxicity testing in
8 freshwater mussels. Minor cosmetic changes
9 are proposed for rules 252:300-21-1 and 21-
10 2 to change the tag line of the rules. We
11 are also proposing to add the and
12 perchlorate to a new Appendix for
13 additional analytes.

14 Judy Duncan is here with me today
15 and we will answer any questions that the
16 Board may have.

17 DR. GALVIN: Thank you. Are
18 there any questions or comments from the
19 Board?

20 MS. SAVAGE: Madam Chair, I'm
21 glad to see that perchlorate is on the
22 radar screen now. For those of you who
23 don't know, that's rocket fuel. And we are
24 dealing with the cost of a rocket program
25 and it's one of those things where you go

1 no jets, no rockets, no perchlorate. And
2 so it's interesting, it's been in our --
3 it's a 60 or 70 year effect. And it is a
4 problem. It's a problem more in other
5 states that here, but it is something that
6 has to be on the radar screen. They have a
7 big problem with it out in California
8 that's in the Imperial Valley and if
9 perchlorate gets in your ground water it's
10 a very interesting thing that happens is
11 the roots -- there is an uptake problem and
12 it gets into lakes and all kinds of things.
13 But it is also in fireworks and lasting
14 devices; dynamite and stuff. So we have a
15 real interesting problem here with the
16 effects of water (inaudible) things, like
17 our modern rocket programs and gas tests,
18 which we can't live without. But it's the
19 after effects and it's just a good thing
20 that we're looking at it. It's not one of
21 those things that's there and not
22 recognized and I'm just glad to see it's on
23 the radar screen now.

24 DR. GALVIN: Any other questions
25 or comments from the Board? Any questions

1 or comments from the public?

2 MR. MASON: I move approval.

3 DR. GALVIN: Do I hear a second?

4 MR. GRIESEL: I'll second.

5 DR. GALVIN: It has been moved

6 and seconded that we adopt Chapter 300 as

7 presented. Please take a roll call.

8 MS. BRUCE: Ms. Cantrell.

9 MS. CANTRELL: Yes.

10 MS. BRUCE: Mr. Coffman.

11 MR. COFFMAN: Yes.

12 MS. BRUCE: Mr. Drake.

13 MR. DRAKE: Yes.

14 MS. BRUCE: Dr. Galvin.

15 DR. GALVIN: Yes.

16 MS. BRUCE: Mr. Griesel.

17 MR. GRIESEL: Yes.

18 MS. BRUCE: Mr. Johnston.

19 MR. JOHNSTON: Yes.

20 MS. BRUCE: Mr. Mason.

21 MR. MASON: Yes.

22 MS. BRUCE: Ms. Rose.

23 MS. ROSE: Yes.

24 MS. BRUCE: Ms. Savage.

25 MS. SAVAGE: Yes.

1 MS. BRUCE: Dr. Sublette.

2 DR. SUBLETTE: Yes.

3 MS. BRUCE: Mr. Wuerflein.

4 MR. WUERFLEIN: Yes.

5 MS. BRUCE: Motion passed.

6 DR. GALVIN: Thank you, Ken.

7 Moving on to Agenda Number 8, Radiation
8 Management. We'll have a presentation by
9 Steve Woods, Vice-Chair of the Radiation
10 Management Advisory Council.

11 MR. WOODS: Thank you, Madam
12 Chair, Members of the Board. I am Steve
13 Woods, Vice-Chair for the Radiation
14 Management Advisory Council. I'm here to
15 present two items today, amendments to
16 252:410, first one being 5-3, adjustments
17 to the radiography certification fees.
18 It's going to bring fees more in line with
19 agency costs, review of training for first
20 time applicants takes more time, this
21 review is not necessary for people taking
22 the test the second time. The first-time
23 applicants fee will be \$140.00, for the
24 second and later tests fees will be \$80.00.
25 Currently the fee is \$90.00 for all

1 applicants. There has been no controversy
2 or opposition for this amendment. Once
3 someone does receive the certification, it
4 is good for five years.

5 The second item, 10-118 address
6 reciprocity recognition of another states
7 regulation license for temporary operations
8 in Oklahoma. This recognition is good for
9 180 days. The DEQ must inspect many of
10 these and the lack of advance notice makes
11 this tough for DEQ. One year ago a \$1,000
12 extra fee was adopted for reciprocity with
13 less than three days notice. This
14 amendment that was adopted back then cut
15 the reciprocity with less than three days
16 notice from 55 percent of the applicants
17 down to 10 percent of the applicants. So
18 it did have a dramatic effect.

19 A loop-hole in the rule is being
20 plugged by this amendment and there is
21 currently no opposition to this proposed
22 rule change. Any questions?

23 DR. GALVIN: Thank you. Any
24 questions or comments from the Board?
25 Hearing none, are there any questions or

1 comments from the public?

2 MR. GRIESEL: I'll make a motion
3 for approval.

4 DR. GALVIN: Would you turn on
5 your microphone? Comments or discussion?

6 MR. GRIESEL: I'll make a motion
7 for approval.

8 MR. COFFMAN: Second.

9 DR. GALVIN: All right. Hearing
10 a motion of acceptance and seconded for
11 Chapter 410 as presented. Let's take a
12 vote.

13 MS. BRUCE: Ms. Cantrell.

14 MS. CANTRELL: Yes.

15 MS. BRUCE: Mr. Coffman.

16 MR. COFFMAN: Yes.

17 MS. BRUCE: Mr. Drake.

18 MR. DRAKE: Yes.

19 MS. BRUCE: Dr. Galvin.

20 DR. GALVIN: Yes.

21 MS. BRUCE: Mr. Griesel.

22 MR. GRIESEL: Yes.

23 MS. BRUCE: Mr. Johnston.

24 MR. JOHNSTON: Yes.

25 MS. BRUCE: Mr. Mason.

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: Dr. Sublette.

7 DR. SUBLETTE: Yes.

8 MS. BRUCE: Mr. Wuerflein.

9 MR. WUERFLEIN: Yes.

10 MS. BRUCE: Motion passed.

11 DR. GALVIN: Thank you. I've had

12 a request for a short break while the

13 reporter takes a rest before we move into

14 the probably more involved section of the

15 Agenda.

16 (Break)

17 DR. GALVIN: We'd like to get

18 started on Item Number 9 on our Agenda,

19 which is the Oklahoma Pollutant Discharge

20 Elimination System (OPDES) Standards. And

21 a presentation will be given by Michel.

22 MR. PAQUE: Thank you, Madam

23 Chair. Good morning everybody, my name is

24 Mike Paque and I'm a member of the Water

25 Quality Management Advisory Council here to

1 make a series of recommendations on rules
2 for your consideration and approval. We
3 would normally have our Chair or Vice-Chair
4 here but both of them were out of town and
5 I can only assume that my name appears very
6 low on the list, I'm the only person on the
7 Council that wasn't out of town today. I
8 am glad to be here and I've got an able
9 bodied staff behind me to help me answer
10 questions that you may have.

11 It really is -- this isn't a
12 political speech, but it's good to be here.
13 I've never appeared before you since I've
14 been on the Council. I used to be on the
15 Board that you all are on. I was on a
16 Board preceding to this one many years ago
17 and I have to say that you all are about
18 half again as smart as some of us or double
19 smart as the rest of us were back in those
20 days. But I have sat in your seat for a
21 few years, although it's been a long time,
22 and appreciate what you do.

23 Let me begin with the first
24 recommendation to the Board. The
25 Department of Environmental Quality,

1 Chapter 606, Oklahoma Pollution Discharge
2 Elimination System or OPDES Standards,
3 Subchapter 1; the Department proposed to
4 update its rules concerning the date of the
5 incorporation by reference of certain
6 federal regulations. The changes adopt the
7 cooling water intake rules by reference and
8 updates the publication of the federal
9 rules from July 1, 2005 to July 1, 2006.

10 There were no comments received by
11 the Department during the comment period or
12 by the Council at our meeting.

13 The Council voted unanimously to
14 recommend that the Board approve the
15 changes to Chapter 606.

16 DR. GALVIN: Thank you, Mike.
17 Any comments or discussion by the Board?
18 Hearing none, any comments from the public?
19 Hearing none, any further discussion by the
20 Board?

21 MR. COFFMAN: Move for adoption,
22 Madam Chairman.

23 MS. SAVAGE: Second.

24 DR. GALVIN: Thank you. Yes,
25 call for a roll.

1 MS. BRUCE: Ms. Cantrell.
2 MS. CANTRELL: Yes.
3 MS. BRUCE: Mr. Coffman.
4 MR. COFFMAN: Yes.
5 MS. BRUCE: Mr. Drake.
6 MR. DRAKE: Yes.
7 MS. BRUCE: Dr. Galvin.
8 DR. GALVIN: 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: Dr. Sublette.
20 DR. SUBLETTE: Yes.
21 MS. BRUCE: Mr. Wuerflein.
22 MR. WUERFLEIN: Yes.
23 MS. BRUCE: Motion passed.
24 DR. GALVIN: Thank you.
25 MR. PAQUE: The second

1 recommendation, Department of Environmental
2 Quality, Title 252; Department of
3 Environmental Quality, Chapter 611, General
4 Water Quality, Subchapter 1.

5 The Department proposes to update
6 its rules concerning the date of
7 Incorporation by Reference of certain
8 federal regulations. The change updates
9 the publication date of the federal rules
10 from July 1, 2005 to July 1, 2006.

11 There were no comments received by
12 the Department during the comment period or
13 received at the Council meeting.

14 The Council voted unanimously to
15 recommend to the Board that you approve the
16 changes to Chapter 611.

17 DR. GALVIN: Thank you, Mike.
18 Any comments or discussion from the Board?
19 Any comments from the general public?

20 MR. MASON: I move approval.

21 MR. GRIESEL: I'll second.

22 DR. GALVIN: Thank you. Shall we
23 have a vote?

24 MS. BRUCE: Ms. Cantrell.

25 MS. CANTRELL: Yes.

1 MS. BRUCE: Mr. Coffman.
2 MR. COFFMAN: Yes.
3 MS. BRUCE: Mr. Drake.
4 MR. DRAKE: Yes.
5 MS. BRUCE: Dr. Galvin.
6 DR. GALVIN: 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: Dr. Sublette.
18 DR. SUBLETTE: Yes.
19 MS. BRUCE: Mr. Wuerflein.
20 MR. WUERFLEIN: Yes.
21 MS. BRUCE: Motion passed.
22 DR. GALVIN: Thank you. Mike, I
23 believe you're up again on Item Agenda
24 Number 11, Industrial Wastewater Systems.
25 MR. PAQUE: Title 252, Department

1 of Environmental Quality Chapter 616,
2 Industrial Wastewater Systems dealing with
3 the following Subchapter 1, I won't read
4 all the specific details. Subchapter 1,
5 Introduction; Subchapter 3, Permit
6 Procedures; Subchapter 9, Tank System
7 Standards; Subchapter 11, Land Application
8 Standards; Subchapter 13, Closure
9 Standards; and two additional -- Appendix D
10 and E; Appendix D, Class III Impoundment
11 Design, which is new and Appendix E, Class
12 III Impoundment Design Closure, which
13 again, is new. And I might add that all of
14 these were heard at regular council
15 meetings. And in reference to the
16 Appendixes we had an additional four or
17 five committee meetings at which time we
18 discussed those new recommendations.

19 The Department proposes to:

20 1) amend its rules concerning the
21 definition of tank system to include above
22 ground storage tanks that contain
23 industrial wastewater, and the definition
24 of waste class to include industrial
25 sludge;

1 2) amend permitting and closure
2 requirements for certain Class III
3 impoundments, such that if certain Class
4 III impoundments are designed in accordance
5 to the requirements of new Appendix D
6 and/or closed pursuant to the requirements
7 of new Appendix E, then a Registered
8 Professional engineer, certified by the
9 State of Oklahoma is not necessary for said
10 design, construction or closure;

11 3) amend tank system requirements to
12 require above ground tank systems to have
13 secondary containment; and

14 4) amend industrial sludge
15 requirements to meet the requirements of
16 state statute concerning sludge managements
17 plans and heavy metals.

18 The Council received two comments,
19 one in writing from Mr. Steve Landers from
20 Georgia-Pacific and one orally at the
21 meeting, from Mr. Zach Williams of OG&E.

22 Mr. Landers comments concerned
23 modifications to proposed restrictions on
24 the land application of industrial
25 wastewater. The Department agreed with

1 Mr. Landers comments and the proposed
2 changes concerning the land application of
3 industrial wastewater be removed from the
4 proposed changes.

5 Mr. Williams comments concerned the
6 changes to include above-ground industrial
7 wastewater tank systems. The comment dealt
8 with whether the above-ground storage tank
9 system included both temporary and
10 permanent. The Department's position was
11 that the changes applied to permanent
12 above-ground industrial wastewater tank
13 systems. Based on the discussion, the
14 Council proposed an amendment to the
15 proposed rule modifications to add the
16 words, "quote, permanently constructed,
17 unquote," between the end of the tag line
18 and the words, "above-ground" in the
19 proposed changes to 252:616-9-3(4).

20 The Council voted unanimously to
21 recommend that the Board approve the
22 changes to Chapter 616 as amended.

23 DR. GALVIN: Thank you, Mike.
24 Are there any comments or questions from
25 the Board?

1 MR. MASON: I have a question.
2 If I read this right, are we expanding the
3 number of tanks that we're going to
4 regulate now? If so, how large is this new
5 population of tanks and do we need to be
6 regulating them?

7 MR. MAISCH: Good morning,
8 Mr. Mason and Board, my name is Don Maisch,
9 attorney for the DEQ Water Quality
10 Division.

11 Yes, we are expanding the regulated
12 community here. It is -- we've found that
13 we've had two or three permittees who have
14 come in and found kind of a hole in our
15 regulations and that is the permit with
16 tank systems that are regulated under
17 Chapter 616, it only deals with below
18 ground. And we only had our regulations
19 applying to below ground storage tanks.
20 The permittees that came in and tried to
21 avoid being regulated and needing a permit
22 by just claiming that they'll move all of
23 their wastewater above ground to put them
24 in above ground storage tanks. Seeing this
25 as an issue then, we looked at our rules to

1 say is there any application here in our
2 rules that apply. Which meant, in our
3 opinion a tank could then be placed out on
4 to the ground and start filling up with
5 wastewater as a method of disposal of that
6 wastewater and the DEQ didn't have any way
7 to regulate that. What these rules
8 attempted to do then, was to regulate that
9 process of certain permittees wanting to do
10 that. And that was the only scope that the
11 rules were supposed to apply to, was for
12 the disposal of that wastewater during
13 those types of processes.

14 Now I know, Dr. Galvin you've come
15 to us and have concerns about that and with
16 -- like, the rule concerning above ground
17 storage tanks and 616-9-3(4) those changes
18 removed as well as the definition in above
19 ground -- or in tank systems, those changes
20 removed as well and sent back to the
21 Council and through the explanation by
22 Dr. Galvin it appears we may have captured
23 more of the population or more of the
24 regulated community than was intended by
25 either the Council or by the Agency and if

1 those need to be sent back to the Council
2 for further work, the Agency doesn't have a
3 problem with that.

4 DR. GALVIN: I'd like to add to
5 that, what we discovered is, that by the
6 addition of this seemingly minor wording in
7 the definition of the tank systems, that in
8 deed, Steve, they captured some tanks that
9 possibly they didn't intend to capture.
10 And it's very clear, from the Council's
11 records, that I can read from that they
12 intended to regulate people who were using
13 tanks for disposal, not just treatment and
14 then moving it on to system. So Don and I
15 did have a conversation earlier today that
16 maybe they want to look at these sections
17 again and post regulations on the tanks
18 that were truly intended to prevent
19 permanent storage for disposal.

20 Any other -- I guess I should add
21 that the real concern that we have, too, is
22 that secondary containment would add a
23 significant burden at this point in time
24 and yes, I speak for a regulated community
25 but there are many others out there that I

1 think would find this new and burdensome.

2 MR. MASON: I think this is a
3 follow-up question to her comments, does
4 this exceed the federal rules on these
5 issues?

6 MR. MAISCH: For Water Quality
7 issues and disposal of wastewater through
8 these types of systems or an above ground
9 tank systems, there would not be any
10 federal rules, at least from a water
11 perspective. We looked at and the Council
12 discussed in great lengths, issues that
13 this may impact either -- or other media
14 that are out there and that was not the
15 intent of the Council nor was it the intent
16 of the agency to ever expand this so that
17 it would have any impact on any other media
18 that might use a similar type of system.

19 MR. JOHNSTON: With these
20 questions in mind, we probably ought to
21 remand it back to the Council, to be a
22 motion. Is that in order?

23 DR. GALVIN: We need to ask for
24 comments from the public first and then
25 we'll bring it back to the Board.

1 MR. JOHNSTON: Sorry about that.

2 DR. GALVIN: Any comments from
3 the public on this issue? Mr. Johnston, if
4 you would like to make a Motion.

5 MR. JOHNSTON: With all these
6 questions in mind and maybe some more that
7 people have, I would recommend that we
8 remand it back to the Council.

9 MR. COFFMAN: Second.

10 MR. WUERFLEIN: Question. Are we
11 talking about sending all of the proposal
12 back to Council or just Section 3?

13 DR. GALVIN: At this time I
14 understand that we're sending it all back.
15 Would you like to have further discussion
16 on that point?

17 MR. PAQUE: Let me understand.
18 You're remanding it -- and we certainly
19 concur, if we need to rehear something,
20 that's fine. So are we remanding it all
21 back or just a portion of it?

22 MS. SAVAGE: I apologize. We had
23 a -- Jennifer, you had -- if you have a
24 change, Jennifer, before the motion to
25 remand it. I'm sorry.

1 DR. GALVIN: I did not.

2 MS. SAVAGE: Don, you said there
3 have been some -- there had been a change
4 that Ms. Galvin had suggested; is that
5 correct?

6 MR. MAISCH: Correct. What we
7 discussed, was for the Board to remand back
8 to the Council the change in the rule and
9 616-9-3(4) and the amendment and the
10 proposed language change in 616-1-2
11 concerning the definition to the term
12 tanker system; and those portions will be
13 remanded back to the Council while the
14 remaining of the chapter and the changes in
15 the Chapter, go forward.

16 MR. JOHNSTON: I think that was
17 my motion.

18 DR. GALVIN: Would you like for
19 me to review that since I'm probably the
20 one that misrepresented that?

21 We're only going to remand back to
22 the Council Section 616-9-3(4) as well as
23 the definition on tank systems. That's the
24 current motion on the floor that has been
25 seconded. Thank you. Can we have a vote?

1 MR. THOMPSON: I'd like some
2 discussion with the Board on the motion.

3 DR. GALVIN: Okay. Steve, sorry.

4 MR. THOMPSON: I think those two
5 things need to be worked on. My initial
6 concern is how much larger are we expanding
7 the regulations into the regulated
8 community and the number of unknowing AST
9 tank owners that we're getting ready to
10 regulate and is there a justification for
11 expanding our regulated communities?

12 MR. MAISCH: I believe we are
13 expanding -- there will be a certain
14 expansion to the regulated community. I
15 think what the Agency and the Council needs
16 to do is look at what that expansion is.
17 Dr. Galvin has graciously agreed to work
18 with the Agency in trying to develop rules
19 that may come back before the Board
20 sometime in the future, to make sure that
21 if we expand we only expand in those
22 limited spaces where it is necessary for
23 that expansion to occur. After we do
24 further work, we may find that there is no
25 expansion necessary so it may not come back

1 again. But if we find that there is we
2 will work with Dr. Galvin and the rest --
3 and staff and the regulated community to
4 limit that expansion to whatever is
5 absolutely necessary.

6 MR. MASON: So does the current
7 motion expand the regulated community?

8 MR. MAISCH: The current motion,
9 no. What the rest of the changes,
10 basically, do are either modify and add
11 rules that are required by statute right
12 now or make certain cleanup changes that
13 are necessary.

14 DR. GALVIN: Okay. I have advice
15 from Council that I'm going to let her
16 explain that maybe these changes are not
17 the only ones or this is possibly not the
18 best way to do this.

19 MS. BUSSERT: If Madam Chair
20 wants to remand the definition of tank
21 system then there will need to be a motion
22 remanding that portion of 616-1-2 because
23 there are also other amendments that the
24 Council has proposed to that particular
25 rule. And maybe Don can explain but I

1 don't know if remanding that changes other
2 rule amendments that he has in other
3 portions of other rules. I don't know.

4 MR. MAISCH: Ellen, can you show
5 -- tell me what other definitions, other
6 than tank system, is being changed in 616-
7 1-2?

8 MS. BUSSERT: The Madam Chair
9 wanted to remand the definition of tank
10 systems, she said.

11 MR. MAISCH: Correct.

12 MS. BUSSERT: And that is in
13 616-1-2.

14 MR. MAISCH: Right. And what I'm
15 saying is those are the only changes in
16 616-1-2. There are no other changes in
17 that --

18 MS. BUSSERT: Oh, I'm sorry. I
19 read further. I looked further and I
20 missed 3-4. Okay. So we need to remand
21 that entire rule?

22 MR. MAISCH: Yes. 616-1-2.

23 MS. BUSSERT: Does it effect
24 other portions of your package if they
25 remand that entire definition of tank

1 system?

2 MR. MAISCH: No. It will not
3 effect any other changes. It was to effect
4 tank systems and that was the only
5 definition and the only rule that applied
6 to that was the rule in 616-9-3 and to that
7 change in tank systems.

8 MS. BUSSERT: Okay. I would
9 suggest you have another motion clearly
10 specifying your remanding for 616.

11 DR. SUBLETTE: Can I ask another
12 question first, please? Regarding
13 secondary containment, wouldn't it make
14 more sense to tie the requirement of
15 secondary containment to the risk
16 associated with a potential spill as to the
17 Class of waste that's being housed in the
18 tank with potential for contact with
19 (inaudible) if a spill takes place?

20 MR. MAISCH: That is definitely
21 one thing. Since that rule is coming back
22 to the Agency to be looked at and you're
23 not going to need -- the motion right now
24 is not to pass that portion of the rule by
25 recommending it go back to the Council.

1 That is definitely one we'll look at.

2 DR. SUBLETTE: I understand that.

3

4 MR. MAISCH: That is -- our
5 definition of waste is defined by Class in
6 the rules. We took it the simplest way
7 possible, which was, just follow what the
8 definitions are as they are currently
9 contained in the rules. We can definitely
10 look at that issue to see whether that
11 would be a better way to look at it and
12 then possibly bring back other -- those
13 changes in the future, if they are
14 necessary.

15 DR. SUBLETTE: Well, there seems
16 to be some concern on the Board about this
17 rule being overly burdensome and I think
18 that might be a way to relieve some of that
19 and in that way it is still protected.

20 MR. MAISCH: We'll, like I said,
21 take a look at that.

22 DR. GALVIN: Thank you. On the
23 advice of Council, I would like to clarify
24 the last motion and remand section 616-1-2
25 as well as section 616-9-3.

1 If the Board would like, that was a
2 clarification. Jerry, does that stand with
3 what your original motion was? The tank
4 system definition falls within section 616-
5 1-2. Council just advised that we should
6 remand that entire section, not just a
7 definition.

8 MR. JOHNSTON: Okay. So be it.

9 DR. GALVIN: Does the second
10 hold?

11 MR. COFFMAN: Yes.

12 DR. GALVIN: Thank you.

13 UNIDENTIFIED MALE: (Inaudible)
14 616-9-3?

15 DR. GALVIN: Correct.

16 UNIDENTIFIED MALE: And you said
17 2?

18 DR. GALVIN: 616-1-2 also, which
19 is the definition section.

20 Are there any further concerns or
21 comments from the Board? We have two
22 complete sections that we're remanding; one
23 entitled definitions, one entitled tank
24 system requirements. Hearing no further
25 comments, I'll call for a vote.

1 MS. BRUCE: Ms. Cantrell.
2 MS. CANTRELL: Yes.
3 MS. BRUCE: Mr. Coffman.
4 MR. COFFMAN: Yes.
5 MS. BRUCE: Mr. Drake.
6 MR. DRAKE: Yes.
7 MS. BRUCE: Dr. Galvin.
8 DR. GALVIN: 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: Dr. Sublette.
20 DR. SUBLETTE: Yes.
21 MS. BRUCE: Mr. Wuerflein.
22 MR. WUERFLEIN: Yes.
23 MS. BRUCE: Motion passed.
24 DR. GALVIN: Thank you.
25 MR. COFFMAN: Madam Chair,

1 question.

2 DR. GALVIN: Yes?

3 MR. COFFMAN: Did we vote for
4 adoption of all of these rules except those
5 that we just remanded or have we only voted
6 to remand?

7 DR. GALVIN: Good point. We have
8 only voted to remand. Now we should vote -
9 - we will require a motion to approve the
10 rest.

11 MR. COFFMAN: Well, I move for
12 adoption of Chapter 616 other than those
13 items that have been remanded.

14 DR. GALVIN: Thank you. Do I
15 hear a second?

16 MR. WUERFLEIN: Second.

17 DR. GALVIN: Thank you, Richard.
18 Hearing no further discussion, I call for a
19 vote.

20 MS. BRUCE: Ms. Cantrell.

21 MS. CANTRELL: Yes.

22 MS. BRUCE: Mr. Coffman.

23 MR. COFFMAN: Yes.

24 MS. BRUCE: Mr. Drake.

25 MR. DRAKE: Yes.

1 MS. BRUCE: Dr. Galvin.
2 DR. GALVIN: Yes.
3 MS. BRUCE: Mr. Griesel.
4 MR. GRIESEL: Yes.
5 MS. BRUCE: Mr. Johnston.
6 MR. JOHNSTON: Yes.
7 MS. BRUCE: Mr. Mason.
8 MR. MASON: Yes.
9 MS. BRUCE: Ms. Rose.
10 MS. ROSE: Yes.
11 MS. BRUCE: Ms. Savage.
12 MS. SAVAGE: Yes.
13 MS. BRUCE: Dr. Sublette.
14 DR. SUBLETTE: Yes.
15 MS. BRUCE: Mr. Wuerflein.
16 MR. WUERFLEIN: Yes.
17 MS. BRUCE: Motion passed.
18 DR. GALVIN: Thank you. Michel,
19 you're still on the hook for Agenda Item
20 Number 12, Pretreatment for Central
21 Treatment Trusts.
22 MR. PAQUE: This is related and
23 concerning Chapter 623 --
24 THE REPORTER: Please turn your
25 microphone on.

1 MR. PAQUE: I'm sorry. Title 252
2 Department of Environmental Quality,
3 Chapter 623 Pre-treatment for Central
4 Treatment Trusts, Subchapter 1, General
5 Provisions; 5, Pretreatment of Wastewater;
6 7, Wastewater Discharge Permit Application;
7 Subchapter 9, Permit Issuance Process;
8 Subchapter 11, Reporting Requirements; and
9 Subchapter 15, Confidential Information.

10 The Department proposes to amend its
11 rules concerning Central Treatment Trusts,
12 the Oklahoma Ordinance Works Authority, to
13 bring the rules into compliance with
14 federal regulatory requirements, update the
15 incorporation by reference date to July 1,
16 2006 and make other clean-up language
17 changes.

18 There were no comments received
19 during the comment period nor were there
20 any comments presented by the public at the
21 Council meeting.

22 The Council voted unanimously to
23 recommend that the Board approve the
24 changes to Chapter 623.

25 DR. GALVIN: Any comments or

1 questions from the Board? Any comments or
2 questions from the public?

3 MR. GRIESEL: I'll make a Motion
4 for adoption.

5 DR. GALVIN: Thank you. Do I
6 hear a second?

7 MR. JOHNSTON: Second.

8 DR. GALVIN: Thank you, Jerry.
9 There is seconded motion on the floor. I
10 call for a vote.

11 MS. BRUCE: Ms. Cantrell.

12 MS. CANTRELL: Yes.

13 MS. BRUCE: Mr. Coffman.

14 MR. COFFMAN: Yes.

15 MS. BRUCE: Mr. Drake.

16 MR. DRAKE: Yes.

17 MS. BRUCE: Dr. Galvin.

18 DR. GALVIN: Yes.

19 MS. BRUCE: Mr. Griesel.

20 MR. GRIESEL: Yes.

21 MS. BRUCE: Mr. Johnston.

22 MR. JOHNSTON: Yes.

23 MS. BRUCE: Mr. Mason.

24 MR. MASON: Yes.

25 MS. BRUCE: Ms. Rose.

1 MS. ROSE: Yes.

2 MS. BRUCE: Ms. Savage.

3 MS. SAVAGE: Yes.

4 MS. BRUCE: Dr. Sublette.

5 DR. SUBLETTE: Yes.

6 MS. BRUCE: Mr. Wuerflein.

7 MR. WUERFLEIN: Yes.

8 MS. BRUCE: Motion passed.

9 DR. GALVIN: Thank you. Michel,

10 Agenda Item Number 13, Public Water Supply

11 Construction Standards.

12 MR. PAQUE: Thank you. Public

13 Water Supply Construction Standards

14 Subchapter 3, Permit Procedures and Permit

15 Fees.

16 The Department proposes to amend its

17 rules concerning fees charged to Public

18 Water Supplies for new and amended

19 construction permit applications.

20 The Department of Environmental

21 Quality conducted agency wide workload

22 evaluations in 2005 and 2006. The workload

23 evaluation for the public water supply

24 permitting section found that the fees

25 being collected for construction permits

1 was not sufficient to cover the costs to
2 conduct permit application review and
3 evaluation. To evaluate the possibility of
4 increasing fees, the DEQ put together a
5 committee to evaluate a change in fees.

6 That committee consisted of
7 Department of Environmental Quality staff,
8 a member of the Oklahoma Municipal League,
9 a member of the Oklahoma Rural Water
10 Association, a member of the Oklahoma
11 Department of Commerce, Small Business
12 Regulatory Review Committee and a member of
13 the Community Resources Group. The group
14 met on several occasions during 2006. They
15 reached consensus that the public water
16 supply permitting fee rules should be
17 reviewed every five years, with any fee
18 changers being effective on July 1, 2007
19 and staying in effect through June 30,
20 2012.

21 The next step the committee
22 undertook, was to adjust the 1993 fees
23 based on inflation from that day forward.
24 The fees were adjusted from their 1993
25 numbers to 2006 numbers, using the rate of

1 inflation for each year from 1994-2006 and
2 then the average inflation rate of the
3 years 1994-2006 was used to project the
4 fees between 2007-2012, a five year
5 increase. The increases in the fees for
6 the years of 2007-2012 was an average to
7 obtain one set fee for the years of 2007-
8 2012. If you follow that, you're pretty
9 sharp.

10 DEQ then reviewed this proposal in
11 conjunction with the workload evaluation
12 and found that if the public water supply
13 construction permitting fees were raised by
14 the rate of inflation as described above,
15 that sufficient funds would be generated to
16 cover the costs of permit application
17 review and evaluation.

18 Based on the evaluation above, the
19 construction and permitting fees for public
20 water supplies are proposed to be raised,
21 based on the rate of inflation, as
22 described previously.

23 There were no comments received
24 during the comment period nor were there
25 any comments heard by members of the public

1 at the Council meeting.

2 The Council voted unanimously to
3 recommend to the Board that you approve the
4 changes to Chapter 626.

5 DR. GALVIN: Thank you. Are
6 there any comments or questions from the
7 Board? Any comments or questions from the
8 public? I'll bring it back to the Board
9 for possible action.

10 MR. MASON: I move approval.

11 MR. GRIESEL: I'll second.

12 DR. GALVIN: Thank you. I hear a motion
13 for adoption. Let's take a vote. Thank
14 you.

15 MS. BRUCE: Ms. Cantrell.

16 MS. CANTRELL: Yes.

17 MS. BRUCE: Mr. Coffman.

18 MR. COFFMAN: Yes.

19 MS. BRUCE: Mr. Drake.

20 MR. DRAKE: Yes.

21 MS. BRUCE: Dr. Galvin.

22 DR. GALVIN: Yes.

23 MS. BRUCE: Mr. Griesel.

24 MR. GRIESEL: Yes.

25 MS. BRUCE: Mr. Johnston.

1

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: Dr. Sublette.

10

DR. SUBLETTE: Yes.

11

MS. BRUCE: Mr. Wuerflein.

12

MR. WUERFLEIN: Yes.

13

MS. BRUCE: Motion passed.

14

DR. GALVIN: Thank you. Agenda

15 Item Number 14, Public Water Supply

16 Operation.

17

MR. PAQUE: Thank you, Madam

18 Chair. Chapter 631 Public Water Supply

19 Operation, Subchapter 1.

20

The Department proposes to update

21 its rules concerning the date of the

22 Incorporation by Reference of certain

23 federal regulations. The change updates

24 the publication date of the federal rules

25 from July 1, 2005 to July 1, 2006, except

1 for the long-term stage two rules.

2 There were no comments received
3 concerning proposed changes to the updates
4 of the federal rules.

5 The Council voted unanimously to
6 recommend that this Board should approve
7 the changes to Chapter 631.

8 DR. GALVIN: Thank you. Do I
9 hear any comments or questions from the
10 Board? Any comments or questions from the
11 public?

12 DR. SUBLETTE: Can I ask a
13 question?

14 DR. GALVIN: Certainly.

15 DR. SUBLETTE: Could you
16 familiarize me with what's being excluded
17 here?

18 MR. MAISCH: I'll do my best.
19 There is -- EPA has proposed certain rules
20 concerning the evaluation of surface water
21 supplies and that raw water, you have to
22 look at and do a set-up monitoring and
23 testing based on the population size of
24 your system, and then you have to do a
25 certain amount of testing and monitoring

1 for that system to find out what kind of
2 contaminants are there and then project out
3 what you need to do to your water supply
4 systems long-term, to meet those
5 requirements.

6 Now the problem with this is this is
7 a very long-term process that is extended
8 out until about the year 2019 by EPA. And
9 it's basically just an evaluation of your
10 raw water supply to find out whether your
11 raw water supply -- what kind of
12 contaminants there are, specifically,
13 mostly with bacteria issues and then what's
14 going to be done to comply with that.
15 Obviously all water supply systems at this
16 time are doing certain sampling,
17 monitoring, and treatment for all bacteria
18 that may be in water at the water treatment
19 plant at the present time. But this is a
20 monitoring program for the surface water
21 supply source in and of itself.

22 Quite frankly, this is a very
23 arduous process. We've had many -- and
24 currently we have not adopted these rules,
25 basically, because we don't have the

1 employees and the money necessarily to take
2 on this program. It's a very large
3 program, it's a very labor intensive
4 program. We are provided technical support
5 to municipalities that have surface water
6 systems to come into compliance with the
7 federal requirements, but it is -- we are
8 leaving this revision of the primary
9 drinking water standards with Region six
10 here in Oklahoma, to implement and enforce
11 that whenever implementation or enforcement
12 may be necessary.

13 DR. SUBLETTE: Thank you.

14 MR. COFFMAN: I've got a follow-
15 up to that. You said there were certain
16 size requirements that would trigger this.
17 Are there any cities within Oklahoma that
18 meet those?

19 MR. MAISCH: Yes. And it's
20 amazing what meets it. And there has been
21 some presentation on this. Obviously,
22 Oklahoma City and Tulsa both meet it and
23 are having to do it, but it's also -- we
24 have much smaller water systems that you
25 would not -- that you would be surprised,

1 have to meet it.

2 To give you an example, the city of
3 Okmulgee sales water to a multitude of
4 rural water systems within their area. But
5 one of their rural water systems happens to
6 also buy water from the city of Tulsa.

7 So EPA believes, since this small
8 rural water system buys water from the city
9 of Tulsa and buys water from the city of
10 Okmulgee because of Tulsa's size and that
11 contractual agreement, Okmulgee also jumps
12 into the initial phase for having to do
13 this. And it's phased over, like I said,
14 until the year 2019 and as I go through
15 years, smaller systems will be incorporated
16 into this.

17 But right now, Okmulgee is having to
18 go through what Tulsa and Oklahoma City are
19 doing right now. So there are several
20 water systems that are having to, many
21 smaller systems that, quite frankly, the
22 Agency doesn't believe should be doing this
23 are being required by EPA to do this
24 because of these types of arrangements and
25 agreements. So -- and that's where a lot

1 of labor intensive issues come in. So it's
2 the Agency's position or the Division's
3 position that we need to let EPA go ahead
4 and handle that, we'll be more than happy
5 to provide technical assistance. In fact,
6 Water Quality staff, including myself, Carl
7 Parrott who is here and we have other
8 Public Water Supply staff that were at a
9 meeting of the Oklahoma Municipal League a
10 week ago today and going through a lot of
11 these issues and going through how to help
12 them put their programs together -- the
13 reason I know Okmulgee is their city
14 manager was speaking with me and spoke
15 about this issue during our presentation
16 that we have. So, yes, there are -- that's
17 just one example, but there is more than
18 just that one example out there.

19 MR. COFFMAN: Thank you.

20 DR. GALVIN: Any other questions
21 or comments from the Board? I believe I've
22 already called for questions and comments
23 from the public, but I'll do that again.
24 Hearing none, I believe we're ready for
25 action --

1 MR. COFFMAN: Move for adoption.
2 MR. JOHNSTON: Second.
3 DR. GALVIN: Thank you. We have
4 a motion on the floor that's been seconded.
5 Call for a vote.
6 MS. BRUCE: Ms. Cantrell.
7 MS. CANTRELL: Yes.
8 MS. BRUCE: Mr. Coffman.
9 MR. COFFMAN: Yes.
10 MS. BRUCE: Mr. Drake.
11 MR. DRAKE: Yes.
12 MS. BRUCE: Dr. Galvin.
13 DR. GALVIN: 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: Yes.
20 MS. BRUCE: Ms. Rose.
21 MS. ROSE: Yes.
22 MS. BRUCE: Ms. Savage.
23 MS. SAVAGE: Yes.
24 MS. BRUCE: Dr. Sublette.
25 DR. SUBLETTE: Yes.

1 MS. BRUCE: Mr. Wuerflein.

2 MR. WUERFLEIN: Yes.

3 MS. BRUCE: Motion passed.

4 DR. GALVIN: Thank you.

5 Agenda Item Number 15, Water Quality

6 Standards Implementation. Mike.

7 MR. PAQUE: The Department of

8 Environmental Quality, Chapter 690, Water

9 Quality Standards Implementation.

10 Subchapters 1 and 3 and Appendix I.

11 The Department proposes to update

12 its rules concerning the date of the

13 incorporation by reference of certain

14 federal regulations. The changes include:

15 updating the publication date of the

16 federal rules to July 1, 2006, including

17 adoption of the Phase II rules concerning

18 cooling water intakes for power plants; how

19 to characterize reasonable potential for

20 toxicity; monitoring frequencies for

21 ammonia; adding EPA approved tests, testing

22 requirements, test failure notification,

23 retest requirements, testing frequency,

24 testing reductions and trial periods for

25 whole effluent toxicity. Additional

1 changes include how the DEQ will deal with
2 unmeasurable levels of a parameter which is
3 at or below an MQL, from 1/2 of the
4 detection limit to Robust or ROS and
5 testing frequency increases and/or
6 reductions for parameters other than Whole
7 Effluent Toxicity.

8 The Council received several
9 comments both in writing and orally during
10 the public meeting on the proposed rule
11 modifications. The comments were from
12 Mr. Steve Landers of Georgia-Pacific,
13 Mr. Mel McFarland of Tinker Air Force Base,
14 Mr. Roy Foster of the City of Tulsa, Derek
15 Smithee of the Oklahoma Water Resources
16 Board, and Zach Williams of OG&E. Based on
17 the comments received, certain amendments
18 to the proposed rules were considered and
19 adopted by the Council, specifically
20 modifying the language concerning when the
21 Department will consider requiring toxicity
22 testing on mussels, to modify the proposed
23 definition to the term, "quote, measurable
24 level, unquote," to bring more clarity to
25 the definition and when the Department will

1 look beyond two years for past permit
2 information concerning the requirements
3 addressed in a permit renewal application.

4 The Council voted unanimously to
5 recommend that the Board approve the
6 changes to Chapter 690 as amended.

7 DR. GALVIN: Thank you. Any
8 comments or questions from the Board?

9 MS. SAVAGE: Madam Chair, I'd
10 like to just make the comment that if no
11 one here has been at these water quality
12 meetings, I can tell you that the work that
13 went into this was enormous. I mean, these
14 are citizens who are unpaid who come from
15 all walks of life to do this work and I've
16 been to these meetings and you're looking
17 at a lot of effort and a lot of tedious
18 waiting and the progress that staff -- and
19 we include staff into this mix. I mean
20 we're sitting here looking at the end
21 result, but this was a lot of work and I
22 just think that the Board and staff should
23 be commended for this.

24 MR. JOHNSTON: Amen.

25 DR. GALVIN: Thank you, Terri.

1 Any other comments from the Board?
2 Any comments from the public? Hearing
3 none, I believe we are --
4 MR. JOHNSTON: Move acceptance.
5 DR. GALVIN: Thank you. Do I
6 hear a second?
7 MR. GRIESEL: I'll second.
8 DR. GALVIN: Thank you. Let's
9 take a vote.
10 MS. BRUCE: Ms. Cantrell.
11 MS. CANTRELL: Yes.
12 MS. BRUCE: Mr. Coffman.
13 MR. COFFMAN: Yes.
14 MS. BRUCE: Mr. Drake.
15 MR. DRAKE: Yes.
16 MS. BRUCE: Dr. Galvin.
17 DR. GALVIN: 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: Dr. Sublette.

4 DR. SUBLETTE: Yes.

5 MS. BRUCE: Mr. Wuerflein.

6 MR. WUERFLEIN: Yes.

7 MS. BRUCE: Motion passed.

8 DR. GALVIN: Thank you.

9 MR. WUERFLEIN: Madam Chairman,

10 while we're still on Water Quality, I ran
11 across a note that Don made before the
12 meeting and I wondered -- you called for
13 the vote before I noticed it. On Chapter
14 623, it runs incorporation by references
15 and they struck out the title and I didn't
16 know if that was a typo or -- while we're
17 still here I want Jimmy to look at this.
18 Is that suppose to be in there, is that
19 going to mess things up? Normally we
20 strike out the date and put a new date in,
21 but there was no old date and they struck
22 out something that doesn't look like --

23 MR. WUERFLEIN: Do you see where
24 we are, Don?

25 MR. MAISCH: I'm looking,

1 quickly.

2 MR. WUERFLEIN: It's 623-1-7
3 (inaudible) in reference to the CFR.

4 MR. WUERFLEIN: See, we struck
5 out the data in the middle here and struck
6 out --

7 MR. MAISCH: Actually there was a
8 mistake in there. And it wasn't so much
9 striking out the Code of Federal
10 Regulations, and CFR, I forgot to retype in
11 CFR. What we did was we added Code of
12 Federal Regulations as CFR back into the
13 definition -- into the definitional section
14 and that was meant to be struck out, but
15 what we meant to type back in there
16 "underlined", was the letters CFR. So it
17 should read; Title 40 Chapter I Subchapter
18 in Part 403 as a CFR, as published because
19 we define CFR as the Code of Federal
20 Regulations now back in the definitional
21 section. I don't think it makes a big deal
22 at this time. And I'll go back and fix
23 that for next year when we bring the
24 adoption back through.

25 MR. MAISCH: And you're

1 absolutely correct. And that was my
2 mistake.

3 DR. GALVIN: On the advice of
4 Council that that was just a clerical error
5 that can be changed, we do not need to
6 revote on that.

7 MR. MISCH: We'll make that
8 change.

9 DR. GALVIN: Thank you, Don.

10 DR. GALVIN: Okay. Item Number
11 16, Waterworks and Wastewater Works
12 Operator Certification. We have a
13 presentation by Arnold Miller.

14 MR. MILLER: Madam Chair and the Board, I
15 am Arnold Miller, the Chair of the
16 Waterworks and Wastewater Works Advisory
17 Council. Title 252, Department of
18 Environmental Quality, Chapter 710,
19 Waterworks and Wastewater Works Operator
20 Certification, Subchapter 1, General
21 Provisions Amended.

22 252:710-1-4, definitions amended.
23 Subchapter 7, Shared Operators for Small
24 Systems, new.

25 252:710-7-1, proposed, new.

1 252:710-7-2, requirements, new.
2 Appendix A, classification; a community and
3 non transient, non community water systems,
4 wastewater systems and laboratories be
5 broke. Appendix A, classification of
6 community and non transient, non community
7 water systems, wastewater systems and
8 laboratories, new.

9 This rulemaking is to implement the
10 requirements set forth in Senate Bill 1293
11 2006, which was codified at 259 OS 1118. A
12 committee was formed which included members
13 of the Waterworks and Wastewater Works
14 Operator Certification Council, to develop
15 the proposed rules. And the rules were
16 sent to the Oklahoma Municipal League, the
17 Oklahoma Rural Water Association and the
18 Executive Director of such retained the
19 cost, for review and comment.

20 At the Council meeting the Oklahoma
21 Rural Water Association spoke in favor of
22 the proposal, specifically the changes to
23 modify the definition to reflect the
24 addition of the new provisions. New
25 provisions include requirements for

1 operators providing services to multiple
2 facilities, including the number of
3 facilities operators can operate, type of
4 certification required and distance
5 requirements.

6 Additionally, verification language
7 was added to Appendix A. As stated above,
8 the only comment received at the Council
9 meeting was from the Rural Water
10 Association in favor of the proposed rule.

11 The Council voted unanimously to
12 recommend the Board approve the changes to
13 Chapter 710.

14 DR. GALVIN: Thank you. Any
15 questions or comments by the Board? Any
16 questions or comments from the public?
17 Hearing none --

18 MR. DRAKE: I move adoption.

19 MR. GRIESEL: I'll second.

20 DR. GALVIN: Thank you. We have
21 a Motion on the floor that has been
22 seconded. Please take the vote.

23 MS. BRUCE: Ms. Cantrell.

24 MS. CANTRELL: Yes.

25 MS. BRUCE: Mr. Coffman.

1 MR. COFFMAN: Yes.
2 MS. BRUCE: Mr. Drake.
3 MR. DRAKE: Yes.
4 MS. BRUCE: Dr. Galvin.
5 DR. GALVIN: 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: Dr. Sublette.
17 DR. SUBLETTE: Yes.
18 MS. BRUCE: Mr. Wuerflein.
19 MR. WUERFLEIN: Yes.
20 MS. BRUCE: Motion passed.
21 DR. GALVIN: Thank you.

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(End of Hearing)

