

**DRAFT MINUTES  
AIR QUALITY ADVISORY COUNCIL  
October 12, 2016  
Department of Environmental Quality  
Multipurpose Room  
Oklahoma City, Oklahoma**

**Official AQAC Approved  
at January 18, 2017 meeting**

**Notice of Public Meeting** – The Air Quality Advisory Council (AQAC) convened for its Regular Meeting at 9:00 a.m. on October 12, 2016, at the Tulsa Tech, 10800 North 140<sup>th</sup> East Avenue, Owasso, Oklahoma. Notice of the meeting was forwarded to the Office of Secretary of State on October 20, 2015. The agenda was posted at the facility and at the DEQ twenty-four hours prior to the meeting. Also, Ms. Cheryl Bradley acted as Protocol Officer and convened the hearings by the AQAC in compliance with the Oklahoma Administrative Procedures Act and Title 40 CFR Part 51 and Title 27A, Oklahoma Statutes, Sections 2-2-201 and 2-5-101 through 2-5-117. She entered the agenda and the Oklahoma Register Notice into the record and announced that forms were available at the registration table for anyone wishing to comment on any of the rules. Ms. Laura Lodes, Vice-Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

**MEMBERS PRESENT**

Montelle Clark  
Gary Collins  
David Gamble  
Jim Haught  
Laura Lodes

**MEMBERS ABSENT**

Gerald Butcher  
Robert Lynch  
Sharon Myers

**DEQ STAFF PRESENT**

Eddie Terrill  
Beverly Botchlet-Smith  
Cheryl Bradley  
Laura Finley  
Madison Miller  
Brooks Kirlin  
Jacklyn Garrett  
Nancy Marshment  
Quiana Fields  
Dawson Lasseter  
Phil Fielder

Cooper Garbe  
Melanie Foster  
Leon Ashford  
Rick Groshong  
Rhonda Jeffries  
Caysie Martin  
Morgan Tucker

**OTHERS PRESENT**

Lynette Wrany, Court Reporter

**Approval of Minutes** – Ms. Lodes called for a motion to approve the Minutes of the January 20, 2016 Regular Meeting. Mr. Gamble moved to approve and Mr. Haught made the second. Ms. Lodes stated we do not have enough votes to pass the minutes.

	<i>See transcript pages 3 - 4</i>		
Montelle Clark	Abstain	Jim Haught	Yes
Gary Collins	Abstain	Laura Lodes	Yes
David Gamble	Yes		

Ms. Laura Finley, Environmental Attorney Supervisor of the DEQ, advised the Council to make a motion to carry the minutes to the next meeting. Ms. Lodes called for a motion to carry the January 20, 2016 Regular meeting minutes to the next meeting. Mr. Gamble moved to approve and Mr. Haught made the second.

	<i>See transcript pages 4 - 5</i>		
Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

**Meeting Schedule for Calendar Year 2017** – Ms. Lodes stated the proposed meeting scheduled dates are: January 18 in Oklahoma City, June 7 in Tulsa and October 11 in Oklahoma City. Mr. Haught moved to approve the proposed dates. Mr. Clark made the second.

*See transcript page 6*

Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

**OAC 252:100-1, General Provisions [AMENDED]**

**OAC 252:100-8, Permits for Part 70 Sources and Major New Source Review (NSR) Sources [AMENDED]**

Mr. Brooks Kirlin, Professional Engineer of the Air Quality Division (AQD), stated the Department is proposing to amend several definitions in OAC 252:100, Subchapter 1, General Provisions, and Subchapter 8, Permits for Part 70 sources and Major NSR Sources, to align the Department’s definitions with those promulgated by the U.S. EPA. Following discussion by the Council and none by the public, Ms. Lodes called for a motion. Mr. Haught moved to approve the recommended changes as presented to Subchapter 1, General Provisions, and Subchapter 8. Mr. Gamble made the second.

*See transcript pages 7 - 28*

Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

**OAC 252:100-2, Incorporation By Reference [AMENDED]**

**Appendix Q. Incorporation By Reference [REVOKED]**

**Appendix Q. Incorporation By Reference [NEW]**

Ms. Nancy Marshment, Environmental Programs Specialist of the AQD, stated the Department is proposing to update OAC 252:100, Appendix Q, Incorporation By Reference, to incorporate the latest changes to EPA regulations. In addition, the Department is proposing to update language in Subchapter 2, Incorporation By Reference, to reflect the latest date of incorporation of EPA regulations in Appendix Q. Hearing no discussion by the Council or the public, Ms. Lodes called for a motion. Mr. Gamble moved to accept changes to Subchapter 2 and Appendix Q as presented. Mr. Clark made the second.

*See transcript pages 28 – 31*

Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

**Consideration of and Action on the Petition for Rulemaking from Oklahoma Department**

**of Labor** – Ms. Finley stated that the petition is to add a requirement to OAC 252:100-40 for asbestos abatement operators planning demolition or renovation activity to “submit to DEQ a copy of all reports of inspections/surveys conducted pursuant to the requirements of 40 C.F.R. § 61.145(a).” Following discussion by the Council and none by the public, Ms. Lodes called for a motion. Mr. Haught made a motion that the Council accepts the petition for rulemaking presented by the Department of Labor to the DEQ with the letter dated September 23, 2016. Mr. Collins made the second.

*See transcript pages 31 - 47*

Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

Ms. Lodes went back to Item #3 on the agenda, Approval of Minutes for the January 20, 2016 Regular meeting. According to *Robert's Rules of Order* and advice from Ms. Finley that a simple majority of votes from the Council will pass the minutes so Ms. Lodes called for a motion to not carry over the January 20, 2016 minutes to the next meeting therefore the minutes were originally approved.

*See transcript pages 48 - 53*

Montelle Clark	Yes	Jim Haught	Yes
Gary Collins	Yes	Laura Lodes	Yes
David Gamble	Yes		

**Ms. Lodes announced the conclusion of the hearing portion of the meeting.**

*See transcript page 53*

**Presentation** – Mr. Leon Ashford, Environmental Programs Specialist of the AQD, Rules and Planning Section gave a presentation and spoke on the Ozone Designation Update, Sulphur Dioxide Data Requirements Rule Update, Explanation of EPA's Disapproval of Certain Portions of Oklahoma's SIP Submittal, and Ozone Transport Rules and Modeling Efforts.

**Division Director's Report** – Ms. Beverly Botchlet-Smith, Assistant Division Director of the AQD, provided an update on other Division activities.

**New Business** – None

**Adjournment** – The next scheduled regular meeting is on Wednesday, January 18, 2017 in Oklahoma City. Meeting adjourned at 11:20 a.m.

**Transcript and attendance sheet are attached as an official part of these Minutes.**

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

AIR QUALITY ADVISORY COUNCIL  
REGULAR MEETING  
OCTOBER 12, 2016 - 9:00 A.M.

TulsaTech  
10800 North 140th East Avenue  
Owasso, OK

Reported by Lynette H. Wrany, C.S.R. #1167

1 CALL TO ORDER - 9:10 A.M.  
2 VICE-CHAIRMAN LAURA LODES: We're going to  
3 call this meeting to order. I would like to call  
4 today's meeting of the Air Quality Advisory Council to  
5 order.  
6 Quiana, will you call the roll?  
7 MS. QUIANA FIELDS: Mr. Butcher is absent.  
8 Mr. Clark?  
9 MR. MONTELLE CLARK: Present.  
10 MS. QUIANA FIELDS: Mr. Collins?  
11 MR. GARY COLLINS: Present.  
12 MS. QUIANA FIELDS: Mr. Gamble?  
13 MR. DAVID GAMBLE: Present.  
14 MS. QUIANA FIELDS: Mr. Haught?  
15 MR. JIM HAUGHT: Here.  
16 MS. QUIANA FIELDS: Ms. Lodes?  
17 VICE-CHAIRMAN LAURA LODES: Present.  
18 MS. QUIANA FIELDS: Mr. Lynch is absent. Ms.  
19 Myers is absent. We have a quorum.  
20 VICE-CHAIRMAN LAURA LODES: The next item on  
21 the Agenda is the Approval of the Minutes from the  
22 January 20th, 2016, Regular Meeting.  
23 Do we have any questions or comments on the  
24 minutes?  
25 Hearing no questions or comments, do we have a

3

COUNCIL MEMBERS PRESENT:

1 Mr. Montelle Clark  
2 Mr. Gary Collins  
3 Mr. David Gamble  
4 Mr. Jim Haught  
5 Ms. Laura Lodes, Vice-Chairman

COUNCIL MEMBERS ABSENT:

6 Mr. Gerald Butcher, Chairman  
7 Mr. Robert Lynch  
8 Ms. Sharon Myers

OTHERS APPEARING:

9  
10 Ms. Laura Finley, Supervising Attorney, Air  
11 Quality Division  
12 Ms. Cheryl Bradley, Environmental Programs  
13 Manager, Air Quality Division  
14 Ms. Beverly Botchlet-Smith, Assistant  
15 Director, Air Quality Division  
16 Mr. Brooks Kirlin, Engineer, Air Quality  
17 Rules and Planning Section  
18 Ms. Nancy Marshment, Environmental Programs  
19 Specialist, Air Quality Division  
20 Ms. Melanie Foster, Environmental Programs  
21 Manager  
22 Mr. Eddie Terrill, Director, Air Quality  
23 Division

1 motion to approve said minutes?  
2 MR. DAVID GAMBLE: Move we accept the minutes.  
3 VICE-CHAIRMAN LAURA LODES: Okay. I have a  
4 motion, do I have a second?  
5 MR. JIM HAUGHT: I'll second it.  
6 VICE-CHAIRMAN LAURA LODES: I have a motion  
7 and a second. Will you, please, call the roll?  
8 MS. QUIANA FIELDS: Mr. Clark?  
9 MR. MONTELLE CLARK: Abstain.  
10 MS. QUIANA FIELDS: Mr. Collins?  
11 MR. GARY COLLINS: Abstain.  
12 MS. QUIANA FIELDS: Mr. Gamble?  
13 MR. DAVID GAMBLE: Yes.  
14 MS. QUIANA FIELDS: Mr. Haught?  
15 MR. JIM HAUGHT: Yes.  
16 MS. QUIANA FIELDS: Ms. Lodes?  
17 VICE-CHAIRMAN LAURA LODES: Yes.  
18 Okay. I have a protocol question, Laura. We  
19 don't have enough people to pass the minutes from the  
20 last meeting. I guess they don't pass?  
21 MS. LAURA FINLEY: You have to make a motion  
22 to carry them over to the next meeting.  
23 VICE-CHAIRMAN LAURA LODES: So I guess now I  
24 have to make a motion to carry them over to the next  
25 meeting?

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4

1 MS. LAURA FINLEY: Yes.  
 2 VICE-CHAIRMAN LAURA LODES: I guess I'm not  
 3 supposed to make that motion. Since we cannot pass  
 4 the minutes of this meeting, can I have a motion to  
 5 carry these minutes over to the next meeting?  
 6 MR. DAVID GAMBLE: I move we carry the meeting  
 7 -- the approval of the minutes to the next meeting.  
 8 MR. JIM HAUGHT: I'll second it.  
 9 VICE-CHAIRMAN LAURA LODES: I have a motion  
 10 and a second to carry these minutes forward.  
 11 Would you, please, call roll?  
 12 MS. QUIANA FIELDS: Mr. Clark?  
 13 MR. MONTELLE CLARK: Yes.  
 14 MS. QUIANA FIELDS: Mr. Collins?  
 15 MR. GARY COLLINS: Yes.  
 16 MS. QUIANA FIELDS: Mr. Gamble?  
 17 MR. DAVID GAMBLE: Yes.  
 18 MS. QUIANA FIELDS: Mr. Haught?  
 19 MR. JIM HAUGHT: Yes  
 20 MS. QUIANA FIELDS: Ms. Lodes?  
 21 VICE-CHAIRMAN LAURA LODES: Yes.  
 22 MS. QUIANA FIELDS: Motion passed.  
 23 VICE-CHAIRMAN LAURA LODES: I will admit  
 24 that's a new one for me.  
 25 The next item on today's Agenda is the meeting

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1 VICE-CHAIRMAN LAURA LODES: We will now enter  
 2 the public rulemaking portion.  
 3 MS. CHERYL BRADLEY: Good morning. I'm Cheryl  
 4 Bradley, Environmental Programs Manager for the Data &  
 5 Planning Group in the Air Quality Division. As such,  
 6 I will serve as the protocol officer for today's  
 7 hearings.  
 8 The hearings will be convened by the Air  
 9 Quality Advisory Council in compliance with the  
 10 Oklahoma Administrative Procedures Act and Title 40 of  
 11 the Code of Federal Regulations, Part 51, as well as  
 12 the authority of Title 27A of the Oklahoma Statutes,  
 13 Section 2-2-201 and Sections 2-5-101 through 2-5  
 14 through 117.  
 15 Notice of the October 12th, 2016 hearings were  
 16 advertised in the *Oklahoma Register* for the purpose of  
 17 receiving comments pertaining to the proposed OAC  
 18 Title 252 Chapter 100 rules as listed on the Agenda  
 19 and will be entered into each record along with the  
 20 *Oklahoma Register* filing. Notice of the Meeting was  
 21 filed with the Secretary of State on October 20th,  
 22 2015. The Agenda was duly posted 24 hours prior to  
 23 the meeting at the DEQ offices in Oklahoma City and at  
 24 this facility.  
 25 If you wish to make a statement, it is very

7

1 schedule for calendar year 2017. We have it somewhere  
 2 here.  
 3 Okay. So we've got the proposal for January  
 4 18th in Oklahoma City, June 7th in Tulsa, and October  
 5 11th in Oklahoma City. Do we have any issues with  
 6 those dates? Comments, concerns?  
 7 Do I have a motion to approve this schedule?  
 8 MR. JIM HAUGHT: I'll move to accept this 2017  
 9 meeting schedule as proposed.  
 10 VICE-CHAIRMAN LAURA LODES: I have a motion.  
 11 Do I have a second?  
 12 MR. MONTELLE CLARK: I'll second.  
 13 VICE-CHAIRMAN LAURA LODES: Would you, please,  
 14 call roll?  
 15 MS. QUIANA FIELDS: Mr. Clark?  
 16 MR. MONTELLE CLARK: Yes.  
 17 MS. QUIANA FIELDS: Mr. Collins?  
 18 MR. GARY COLLINS: Yes.  
 19 MS. QUIANA FIELDS: Mr. Gamble?  
 20 MR. DAVID GAMBLE: Yes.  
 21 MS. QUIANA FIELDS: Mr. Haught?  
 22 MR. JIM HAUGHT: Yes.  
 23 MS. QUIANA FIELDS: Ms. Lodes?  
 24 VICE-CHAIRMAN LAURA LODES: Yes.  
 25 MS. QUIANA FIELDS: Motion passed.

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1 important that you complete the form at the  
 2 registration table, and you will be called upon at the  
 3 appropriate time. Audience members, please, come to  
 4 the podium for your comments and, please, state your  
 5 name.  
 6 At this time, we will proceed with what is  
 7 marked as Agenda Item 5A on the hearing agenda, OAC  
 8 252:100-1, General Provisions [AMENDED]; OAC  
 9 252:100-8, Permits for Part 70 Sources and Major New  
 10 Source Review (NSR) Sources [AMENDED].  
 11 Brooks Kirlin will make the staff  
 12 presentation.  
 13 MR. BROOKS KIRLIN: Good morning, Madam Chair,  
 14 Members of the Council, ladies and gentlemen. I'm  
 15 Brooks Kirlin, an engineer with Air Quality's Rules &  
 16 Planning Section.  
 17 The Department is proposing to amend several  
 18 definitions in Subchapter 8, and a couple -- and a  
 19 couple in Subchapter 1, primarily to align those used  
 20 for our major source programs with definitions  
 21 currently used by the U.S. Environmental Protection  
 22 Agency. We are also proposing a few additional  
 23 updates and changes to the PSD program rules.  
 24 EPA Region 6 has been making progress on their  
 25 backlog of Oklahoma's State Implementation Plan

8

1 submittals. We believe that the changes we are  
2 proposing will close some gaps and help us and EPA  
3 move forward toward the goal of wiping out this  
4 backlog and assure that our facilities' permit  
5 conditions are federally enforceable and settled.

6 If the proposed changes are promulgated, they  
7 will be submitted for inclusion in the SIP, and  
8 today's hearing will serve to meet the public  
9 participation requirements of -- for a SIP submittal.

10 I will go through the changes, as laid out in  
11 the memo in the Council members' packet, eight items  
12 that are grouped according to the reason for the  
13 change. Since this approach will require some  
14 bouncing around through the proposal, I have provided  
15 a document in today's Council members' folder that,  
16 under each item, I have put a portion of the  
17 definition or rule that's affected and then I'll, for  
18 that purpose, skip some of the unaffected definitions  
19 and other sections -- or other language. And I will  
20 be showing the items and the affected text on the  
21 screen for the audience.

22 Starting with Change Number 1, the first  
23 proposed change relates to deferral of consideration  
24 of CO<sub>2</sub> emissions that result from the combustion or  
25 decomposition of biomass under the federal Greenhouse

9

1 constituents or precursors to a criteria pollutant.

2 Note that the revision would remove the  
3 specific term "PM emissions" in reference to  
4 condensable particulate matter since PM is not a  
5 separate criteria pollutant, that is, as opposed to  
6 criteria pollutants for PM<sub>2.5</sub> and PM<sub>10</sub>. The  
7 definition will, of course, retain requirements to  
8 account for condensable particulate matter for PM<sub>2.5</sub>  
9 emissions and PM<sub>10</sub> emissions.

10 Okay. The next proposal would amend the  
11 definition of the term "significant" in Section 8-31  
12 to align the Department's definition with EPA's  
13 long-standing definition found in 40 CFR Section  
14 51.166(b)(23) of the PSD provisions.

15 Number 5, the proposal would modify the  
16 definitions of "building, structure, facility, or  
17 installation" in Section 1-3 and "major source" in  
18 Section 8-2. These changes would align the  
19 Department's definitions with those promulgated by EPA  
20 in conjunction with the Source Determination rule for  
21 Certain Emission Units in the Oil and Natural Gas  
22 Sector. That was in June of this year.

23 The next change, the proposal would further  
24 revise that same definition of "major source" in  
25 Section 8-2, to align the language related to ozone

11

1 Gas program. The proposal would remove related  
2 language from the definition of the term "subject to  
3 regulation" in two locations, two Subchapter 8  
4 locations: Section 8-2, which in the proposal is on --  
5 I believe it's on page 6 and 7 of the -- what's in the  
6 packet; and then Section 8-31, which is PSD, and also  
7 from the definition of "carbon dioxide equivalent  
8 emissions" or CO<sub>2</sub>e in Subchapter 1, 1-3.

9 This slide is just to show you the language  
10 we're talking about. Besides the fact that this  
11 particular so-called "Biomass Deferral Rule" was  
12 vacated by the courts, it also had an expiration date  
13 of July of 2014.

14 The second change would further revise the  
15 definition of "subject to regulation" in Section 8-31.  
16 It would remove language in Subparagraph (E) that's  
17 related to court-vacated requirements for Step 2 of  
18 the Greenhouse Gas Tailoring Rule, which is 40 CFR  
19 Section 51.166(b)(49)(v).

20 The third change would revise the structure  
21 and wording of the definition of "regulated NSR  
22 pollutant" in Section 8-31 to clarify its  
23 applicability to condensable -- clarify its  
24 applicability to condensable particulate matter  
25 emissions and to emissions of pollutants identified as

10

1 nonattainment areas with changes made as part of the  
2 2008 NAAQS Implementation rule.

3 In addition, we propose to amend Subsection  
4 8-33(a) to incorporate a clarification related to  
5 revoked NAAQS that EPA included in the implementation  
6 rule.

7 Change Number 7 would amend Subsection 8-33(c)  
8 to revise to zero, zero micrograms per cubic meter,  
9 the PM<sub>2.5</sub> impact amount for exemption from the  
10 pre-construction ambient monitoring requirements of  
11 Subsection 8-35(c), plus a related language update to  
12 drop the term "significant monitoring concentration."  
13 The proposal would also revise Subsection  
14 8-35(a) to remove the PM<sub>2.5</sub> significant impact levels  
15 (SILs), in accordance with EPA's revisions in 40 CFR  
16 Section 51.166. And EPA made these changes in  
17 response to court actions in December 2013.

18 And finally, Change Number 8 would amend  
19 section -- Subsection 51.1(c) to update the  
20 incorporation by reference date to coincide with the  
21 effective date for the recent changes to 40 CFR  
22 Section 51.165(a)(11).

23 Notice of the proposed rule changes was  
24 published in the *Oklahoma Register* on September 1st,  
25 2016. No comments on the proposals have been --

12

1 proposal has been received. And the Staff asks that  
2 Council recommend the proposed rules to the  
3 Environmental Quality Board for approval as permanent  
4 changes.

5 MS. CHERYL BRADLEY: Thank you, Brooks.  
6 Questions from the Council?

7 MR. JIM HAUGHT: I have two questions. One is  
8 where it says we're going to align with the -- the  
9 Department's definition with that of the EPA. Is  
10 that -- is that the exact language that copies the  
11 language of the EPA? Or you say aligning. Does  
12 aligning mean you took some license and paraphrased it  
13 a little bit or is it the exact, the exact language?

14 MR. BROOKS KIRLIN: Some of -- some of the  
15 items in the context, they were, like I said, maybe  
16 slightly altered. But I don't think there's any  
17 substantial difference in it. It's the intention to  
18 be.

19 MR. JIM HAUGHT: And then the second, at page  
20 5, it's saying that the fourth change, where you're  
21 talking about amending the definition of  
22 "significant," --

23 MR. BROOKS KIRLIN: Right.

24 MR. JIM HAUGHT: What was added as (B). You  
25 know I understand the (A) and (C), they were in there

13

1 VICE-CHAIRMAN LAURA LODES: And that is part  
2 of what I've got a question on here. Because -- so  
3 that says, you know, (B) says regulated NSR pollutant.  
4 And then what we're changing now is we've got the  
5 definition of a regulated NSR pollutant and we've got  
6 a list of them.

7 But one thing I just -- and I'm sorry I didn't  
8 catch it before our meeting before this -- is we've  
9 taken PM out of this list itself, correct?

10 MR. BROOKS KIRLIN: Well --

11 VICE-CHAIRMAN LAURA LODES: If you look at the  
12 definition of regulated NSR pollutant on 8-31. The  
13 definition.

14 MR. BROOKS KIRLIN: In -- well, in the  
15 definition of "significant", there PM is listed.

16 VICE-CHAIRMAN LAURA LODES: Correct. And so  
17 that's what I'm saying. Under "significant" we have  
18 particulate matter listed at 25 tons. But if I go  
19 back to the definition of regulated NSR pollutant, one  
20 of the changes we've made here is -- and what you were  
21 saying is you took PM out of that list under (D),  
22 because you restructured where PM<sub>2.5</sub> and PM<sub>10</sub> are and  
23 you moved them up to (A), to (A)(i). Yeah. I'm on  
24 page 16 of the original packet that I have of the  
25 rules.

15

1 and kind of had some definite thresholds and triggers.  
2 I don't really understand (B). Can you help me  
3 understand that?

4 MR. BROOKS KIRLIN: That's one of those items  
5 that has -- it hasn't been in our rule. It has been  
6 in the EPA rules for -- I'm not sure of the date that  
7 was originally was in, but it's there. And it, you  
8 know, we have looked at, you know, the implications  
9 for that. We have been -- we have asked -- actually  
10 asked EPA and some other -- and other states if they  
11 have identified an instance where that came in to  
12 play, where that was cited. And I don't believe we've  
13 identified an action that was identified.

14 So it's one of those things that it hasn't --  
15 I mean, we don't know the practical implication for  
16 it, where it has been used. But we also know that  
17 EPA, in reviewing our existing definition for  
18 approval, if you would, would find it deficient.

19 MR. JIM HAUGHT: So what is "significant?" If  
20 there's no examples of when it's been used,  
21 potentially, I mean, it just looks like if there's any  
22 -- any net increase, it's significant. That  
23 definition may be --

24 MR. BROOKS KIRLIN: For an NSR pollutant  
25 that's not already laid out.

14

1 MR. BROOKS KIRLIN: Right. Right.

2 VICE-CHAIRMAN LAURA LODES: If that helps you  
3 out any. Because we moved -- you know, we struck that  
4 first part under (A) and, you know, you say regulated  
5 NSR pollutant.

6 MR. BROOKS KIRLIN: Right.

7 VICE-CHAIRMAN LAURA LODES: We struck that and  
8 we changed it. And we moved the PM<sub>2.5</sub> and PM<sub>10</sub> up to  
9 here. And then when I flip to the next page on page  
10 17, under (D) is where we used to say PM emissions,  
11 but we've removed PM emissions from this section for a  
12 regulated NSR pollutant, yet we still have particulate  
13 matter under the definition of "significant." And I  
14 don't know if that's going to be a -- I want to make  
15 sure that's not a problem.

16 So if you look on page --

17 MR. BROOKS KIRLIN: Right. I understand.

18 VICE-CHAIRMAN LAURA LODES: It is 16, 17 and  
19 18, I guess, is where I'm talking about.

20 MR. BROOKS KIRLIN: Yes. I'm there. I would  
21 need to go back and check the -- (aside) can we look  
22 at the rule, the federal rule, and see what --

23 (Pause.)

24 If we could have just a moment.

25 (Pause.)

16

1 VICE-CHAIRMAN LAURA LODES: What I'm talking  
2 about is we're losing particulate matter 25 tons as an  
3 NSR pollutant, regulated NSR pollutant, is what it  
4 looks like. Because it was on page 17 under (D) and  
5 we listed PM, PM<sub>2.5</sub> and PM<sub>10</sub>, and then we moved to the  
6 page before PM<sub>2.5</sub> and PM<sub>10</sub>, but we dropped PM,  
7 particulate matter, itself.

8 (Pause.)

9 MS. BEVERLY BOTCHLET-SMITH: We don't have to  
10 pass these today, if there is some uncertainties that  
11 staff needs to collaborate on to clear up questions.  
12 If -- maybe we can just -- if you all want to go ahead  
13 and go through all your questions and then, if we need  
14 to break later, we might talk about it.

15 MR. BROOKS KIRLIN: Okay. My understanding,  
16 the concern primarily is that in -- under  
17 "significant", the term particulate matter, 25 tons  
18 per year of particulate matter emissions, it says or  
19 15 tons per year of PM<sub>10</sub> emissions under (A)(IV) would  
20 continue to appear. But under regulated NSR  
21 pollutant, we would be pulling the reference to PM,  
22 just simple PM, or, yeah, PM emissions.

23 I know that we've discussed that, for the  
24 purposes of regulated NSR pollutant, that what was in  
25 here would cover for those purposes what was intended,

17

1 says -- particulate matter, the 25 ton threshold, is  
2 clearly part of the DEQ regulations. That alone would  
3 pull us back in on the federal level. But that's  
4 really the only place where particular matter still  
5 has that.

6 And then it also would get pulled in under  
7 item (B) where it's under Section 111 of the Act  
8 because it's regulated there. So I do think it gets  
9 pulled in in a couple of places, it's just more  
10 convoluted, I mean, than it had been before where it  
11 was spelled out with particulate matter.

12 MR. JIM HAUGHT: Right. And it's stated in  
13 the -- on the significant -- back on the significant  
14 list. It's on the significant list now and we're not  
15 proposing to take it off that list.

16 VICE-CHAIRMAN LAURA LODES: Right.

17 MR. BROOKS KIRLIN: Right. I believe that --

18 VICE-CHAIRMAN LAURA LODES: We can't -- I  
19 don't think we could take it off. So --

20 MR. BROOKS KIRLIN: I think it will continue  
21 to be under the PSD, is what we're saying. I think  
22 it's a -- you know, particularly in reference to the  
23 condensables.

24 VICE-CHAIRMAN LAURA LODES: Correct.

25 MR. BROOKS KIRLIN: Particularly. That's --

19

1 the purpose to cover. And then under -- as pointed  
2 out, that under (B), I guess, under Section 111, I  
3 guess, would pull in -- may pull in particulate  
4 emissions for that purpose under NSPS.

5 VICE-CHAIRMAN LAURA LODES: I'm not sure I  
6 followed you. I'm sorry. Oh, I see. You're saying  
7 (B), where it says, "any pollutant that is subject to  
8 any standard promulgated under Section 111 under the  
9 Act?" Is that where you're saying it gets pulled in?

10 MR. BROOKS KIRLIN: Right. I mean, where --

11 VICE-CHAIRMAN LAURA LODES: I mean, it does  
12 say it's not limited to the following. I just --  
13 particular matter is one of the original ones. And I  
14 know we still have that 25 ton per year PSD threshold  
15 in there. And that was why I was kind of surprised  
16 that was -- that one we would drop, I think, is more  
17 my question or my comment there.

18 It does, I think, still -- I don't think there  
19 is any way I could get talked out of not applying it,  
20 basically, just because it's not here.

21 MR. BROOKS KIRLIN: Right. Because it's  
22 not -- because it's not in the definition.

23 VICE-CHAIRMAN LAURA LODES: Right. And I  
24 think we can get at -- I mean, because the definition  
25 says includes but is not limited to the following. It

18

1 VICE-CHAIRMAN LAURA LODES: Okay.

2 MR. JIM HAUGHT: Well, I'm going to go back up  
3 still on this meaning of "significant."

4 THE COURT REPORTER: I can't hear him.

5 MR. JIM HAUGHT: I guess my question, I -- we  
6 do not know any time it's ever been applied, we don't  
7 know when it would be applied. Why are they --  
8 (Inaudible) If somebody -- (Inaudible.) I'm trying to  
9 understand what their reasoning would be. I didn't --  
10 I couldn't. So why is it such an issue for them that  
11 we want that there?

12 And I don't want some no-threshold, "gotcha"  
13 catchall in there. And that's my concern.

14 MS. LAURA FINLEY: Jim, you might speak up.

15 This is Laura Finley. What was our discussion  
16 and kind of what went through is that this was a just  
17 in case and it was something that EPA wanted in there  
18 as a just in case, you know, there is anything else  
19 out there.

20 And what we did is a lot of searching and,  
21 like Brooks said, asking around and trying to think of  
22 any pollutant that might pull somebody in who wasn't  
23 already in. And we just -- we really couldn't find  
24 one.

25 I mean, if anybody's already having, you know,

20



1 any source that's going to have one of these random  
2 pollutants that doesn't already have a significance  
3 level, they're going to have -- they're going to be  
4 measured for everything else anyway. You know, it's  
5 kind of that situation.

6 So it is a little bit of that blurry, well,  
7 like you said, a "gotcha," but our research kind of  
8 came up with we just couldn't find anything that was  
9 going to be a gotcha of some sort. They're going to  
10 measure for that and not measure already for  
11 everything else, for significance for everything else.

12 So and again, like Brooks said in his  
13 presentation, this is one of those things that EPA  
14 flagged that here is where your SIP is still deficient  
15 and you need to make these changes. This was one of  
16 them, in order to bring -- so we can get our SIP  
17 approved essentially. So I -- does that help?

18 MR. JIM HAUGHT: Well, I understand that you  
19 can't come up with why it's there. You could insert  
20 this type of language throughout all the Air Quality  
21 rules in places just in case.

22 MS. LAURA FINLEY: Right.

23 MR. JIM HAUGHT: Why this? Why this one?

24 Because, I mean, if it is something that's  
25 significant, that's, you know, that's a threshold --

21

1 significant.

2 MS. LAURA FINLEY: Yes.

3 MR. JIM HAUGHT: Regardless of how minor, you  
4 know, and how small that is.

5 VICE-CHAIRMAN LAURA LODES: Correct. And I  
6 guess that's a good question, because, you know, what  
7 about benzene? Ah-ha. It's not on this list. It's a  
8 VOC. So are you just now going to let me put it --  
9 would it only be considered once it's a VOC of 40? I  
10 don't believe so. I mean, I think that's where I lose  
11 -- I can't see the vagueness of what is that, any  
12 pollutant, if I'm right.

13 MS. LAURA FINLEY: I believe this is from the  
14 federal rule. It's always been there.

15 MR. BROOKS KIRLIN: Right. Right. And so it  
16 is --

17 MS. LAURA FINLEY: We just didn't have it in  
18 ours. It was in the federal rule.

19 MR. BROOKS KIRLIN: On the federal level --

20 MS. LAURA FINLEY: So it's been there.

21 MR. BROOKS KIRLIN: -- you know, I guess if  
22 something, I don't know, something were to come up, lo  
23 and behold, there was something new, I'm sure EPA  
24 would note that under the rule. Because, like I said,  
25 the federal rule -- the federal rule is, you know,

23

1 it's something you measure. If you're a part of the  
2 regulated community or someone who has the charge of  
3 being in compliance with those, who knows the specific  
4 reference to what that is and it's just in case, I'm  
5 not even sure that I can (inaudible). It's a  
6 question. It's just -- it's so unclear. It doesn't  
7 provide any regulatory certainty at all.

8 MS. LAURA FINLEY: Sure. Yeah. I definitely  
9 see where you're coming from. I think the question  
10 only comes in if you're ever having to do this  
11 analysis, right, the analysis that you increased  
12 emissions. I mean, you can -- you can imagine the  
13 fact situation would be so rare that you're making  
14 some change or looking to do this and you're raising  
15 emissions and you're significant for some random  
16 pollutant, but you're not significant for CO and PM,  
17 you know.

18 MR. JIM HAUGHT: But I'm not sure I'm looking  
19 at all at the right pollutants to determine if they're  
20 significant. You know, if they're not on the list, I  
21 might overlook it at -- that's the concern. Am I  
22 going to do that evaluation to determine if I'm truly  
23 in the significant threshold. And if there are no  
24 thresholds on here, then any, any emission of that  
25 pollutant that looks -- that may be unknown would be

22

1 they still require it.

2 MR. DAVID GAMBLE: Okay. So based on that,  
3 it's always been in the federal rule and we've been  
4 subject to it. But we have kind of let it --

5 MS. LAURA FINLEY: Right.

6 MR. DAVID GAMBLE: Some of it.

7 MS. LAURA FINLEY: Right.

8 MR. DAVID GAMBLE: And it's just now being put  
9 in our state rules.

10 MS. LAURA FINLEY: In our state rules.

11 Certainly we can get our SIP approved. As everyone's  
12 very well aware --

13 VICE-CHAIRMAN LAURA LODES: The SIP, yeah. I  
14 would like the SIP gap closed.

15 MS. LAURA FINLEY: Correct.

16 VICE-CHAIRMAN LAURA LODES: So I don't want  
17 this to be a -- necessarily a hold up on it.

18 Any other questions?

19 MR. DAVID GAMBLE: Just to clear it up in my  
20 mind, it would -- the PM -- I guess since the PM is  
21 regulated by -- in the Act under other parts, PM by  
22 itself is not necessary. It doesn't need to appear  
23 here specifically, because it's covered by one of  
24 these other things?

25 MR. BROOKS KIRLIN: Right. Yeah.

24

1 MR. DAVID GAMBLE: (Inaudible.)  
 2 MR. BROOKS KIRLIN: Right. Right. Most of  
 3 these are categories of -- broad categories of  
 4 pollutants. So --  
 5 MR. DAVID GAMBLE: Okay. Thank you.  
 6 MS. LAURA FINLEY: Can I interject before we  
 7 have another vote? We pulled out the Robert's Rules,  
 8 which I got teased for bringing. We don't have to  
 9 have a unanimous vote, we just have to have a simple  
 10 majority. So before we voted any more, I just wanted  
 11 to bring that up.  
 12 VICE-CHAIRMAN LAURA LODES: Oh, good. So  
 13 maybe we -- should we maybe go back on the approval of  
 14 the minutes?  
 15 MS. LAURA FINLEY: It's whatever you're  
 16 inclined to do.  
 17 VICE-CHAIRMAN LAURA LODES: Okay.  
 18 MS. LAURA FINLEY: I'm inclined to say they  
 19 were approved.  
 20 VICE-CHAIRMAN LAURA LODES: I'm glad you  
 21 brought them. I'm not going to tease you for having  
 22 them.  
 23 MS. CHERYL BRADLEY: Questions from the  
 24 public?  
 25 It appears that there are none.

25

1 MR. MONTELLE CLARK: Is that, yes, it needs to  
 2 be removed?  
 3 MS. MELANIE FOSTER: Melanie Foster. Yes, the  
 4 comma needs to be there. That is verbatim from the  
 5 federal portion. The only portion that is different  
 6 is, of course, the reference to (A), because our  
 7 nomenclature is different than that is.  
 8 MR. MONTELLE CLARK: Okay. Thank you.  
 9 VICE-CHAIRMAN LAURA LODES: Okay. Any further  
 10 questions or discussion by the Council?  
 11 Staff has recommended that we pass this rule.  
 12 Do I have a motion?  
 13 MR. JIM HAUGHT: Okay. I'll move that we  
 14 accept the recommended changes as presented to  
 15 Subchapter 1, General Provisions, and Subchapter 6.  
 16 MR. DAVID GAMBLE: Second.  
 17 VICE-CHAIRMAN LAURA LODES: I have a motion  
 18 and a second. Would you, please, call roll?  
 19 MS. QUIANA FIELDS: Mr. Clark?  
 20 MR. MONTELLE CLARK: Yes.  
 21 MS. QUIANA FIELDS: Mr. Collins?  
 22 MR. GARY COLLINS: Yes.  
 23 MS. QUIANA FIELDS: Mr. Gamble?  
 24 MR. DAVID GAMBLE: Yes.  
 25 MS. QUIANA FIELDS: Mr. Haught?

27

1 VICE-CHAIRMAN LAURA LODES: Are there any  
 2 further -- are there any other, any further questions  
 3 or comments by the Council?  
 4 Staff has recommended that we pass this rule.  
 5 Do I have a motion?  
 6 MR. MONTELLE CLARK: Really this is very  
 7 minor. This is just a comment from (B) under 8-31,  
 8 "Significant means," the comma after "list", does  
 9 that need to be there?  
 10 MR. BROOKS KIRLIN: I'm having trouble  
 11 hearing.  
 12 MR. MONTELLE CLARK: Sorry. The microphones  
 13 are persnickety. Under "Significant," under the  
 14 definitions under "significant" in (B), there is a  
 15 comma after "list." It seems -- I think it's not  
 16 supposed to be there. Page 5. Is that -- am I  
 17 misreading that? Sorry. At page 5.  
 18 MR. JIM HAUGHT: That was the reason for my  
 19 first question, was this exactly word for word out of  
 20 the federal or not, because I noticed that as well.  
 21 MR. BROOKS KIRLIN: Okay.  
 22 MR. MONTELLE CLARK: Okay. If it's supposed  
 23 to be there, it just seems awkward to me.  
 24 MR. BROOKS KIRLIN: Okay. My boss is nodding  
 25 her head yes.

26

1 MR. JIM HAUGHT: Yes.  
 2 MS. QUIANA FIELDS: Ms. Lodes?  
 3 VICE-CHAIRMAN LAURA LODES: Yes.  
 4 MS. QUIANA FIELDS: Motion passed.  
 5 MS. CHERYL BRADLEY: Next is Agenda Item 5B,  
 6 OAC 252:100-2, Incorporation By Reference [AMENDED];  
 7 OAC 252:100, Appendix Q, Incorporation By Reference  
 8 [REVOKED]; and replaced with a new OAC 252:100,  
 9 Appendix Q, Incorporation By Reference.  
 10 Nancy Marshment will make the staff  
 11 presentation.  
 12 MS. NANCY MARSHMENT: Good morning.  
 13 Madam Chair, Members of the Council, ladies  
 14 and gentlemen, I'm Nancy Marshment, Environmental  
 15 Programs Specialist with the Air Quality Division.  
 16 The Department is proposing to update language  
 17 in Subchapter 2, Incorporation by Reference, to  
 18 reflect the new date of incorporation for Appendix  
 19 Q.  
 20 In addition, the Department is proposing to  
 21 revoke the current Chapter 100, Appendix Q,  
 22 Incorporation By Reference, and adopt a new  
 23 Appendix Q. This proposal is part of the annual  
 24 update of Title 40, Code of Federal Regulations,  
 25 Incorporations By Reference in Chapter 100. The

28

1 Oklahoma Rules on rulemaking dictate the procedure for  
2 amending a rule appendix by revoking the old and  
3 creating an entirely new appendix.

4 The proposed changes to Appendix Q reflect  
5 federal regulations, for the most part New Source  
6 Performance Standards or NSPS and National Emissions  
7 Standards for Hazardous Air Pollutants, or NESHAPs,  
8 which have been implemented as of September 1, 2016.  
9 This list was updated after your initial packet was  
10 sent out in order to include the new Municipal Solid  
11 Waste Landfill rule in preparation for proposal to the  
12 Council at its January meeting.

13 The update would also incorporate any  
14 amendments to standards currently listed in  
15 Appendix Q. A list of all changes to standards that  
16 have been made since July 1, 2015, was provided in  
17 your packet and an updated version is in your folder.  
18 The list is also included as the last page of the  
19 handout that the visitors received for Subchapter 2  
20 and Appendix Q.

21 Federal rules proposed to be added to Appendix  
22 Q include: 40 CFR Part 60 Subpart TTTT, Standards of  
23 Performance for Greenhouse Gas Emissions for Electric  
24 Generating Units; 40 CFR Part 60 Subpart XXX,  
25 Standards of Performance for Municipal Solid Waste

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1 motion?

2 MR. DAVID GAMBLE: I'll move that we accept  
3 the changes to Subchapter 2 and Appendix Q as  
4 presented by the DEQ.

5 MR. MONTELLE CLARK: I second that.

6 VICE-CHAIRMAN LAURA LODES: I have a motion  
7 and a second. Would you, please, call roll?

8 MS. QUIANA FIELDS: Mr. Clark?

9 MR. MONTELLE CLARK: Yes.

10 MS. QUIANA FIELDS: Mr. Collins?

11 MR. GARY COLLINS: Yes.

12 MS. QUIANA FIELDS: Mr. Gamble?

13 MR. DAVID GAMBLE: Yes.

14 MS. QUIANA FIELDS: Mr. Haught?

15 MR. JIM HAUGHT: Yes.

16 MS. QUIANA FIELDS: Ms. Lodes?

17 VICE-CHAIRMAN LAURA LODES: Yes.

18 MS. QUIANA FIELDS: Motion passed.

19 MS. CHERYL BRADLEY: Now on to Agenda Item 5C,  
20 Consideration and Action on the Petition for  
21 Rulemaking from the Oklahoma Department of Labor.

22 Laura Finley, Supervising Attorney, will present.

23 MS. LAURA FINLEY: Madam Chair, Members of the  
24 Council, good morning. For the record, I'm Laura  
25 Finley, the Supervising Attorney for the Air Quality

31

1 Landfills that Commenced Construction, Reconstruction,  
2 or Modification after July 17, 2014; Part 60 Subpart  
3 0000a, Standards of Performance for Crude Oil and  
4 Natural Gas Facilities for which Construction,  
5 Modification, or Reconstruction Commenced after  
6 September 18th, 2015; and 40 CFR Part 63 Subpart NN,  
7 National Emission Standards for Hazardous Air  
8 Pollutants for Wool Fiberglass Manufacturing at Area  
9 Sources.

10 Notice was published in the *Oklahoma Register*  
11 on September 1st, 2016 for these proposed changes.  
12 The notice requested written comments from the public  
13 and other interested parties. No comments have been  
14 received as of today.

15 Staff requests the Council recommend this  
16 rulemaking to the Environmental Quality Board for  
17 permanent adoption. Thank you.

18 MS. CHERYL BRADLEY: Questions from the  
19 Council?

20 Seeing none, are there any questions from the  
21 public? There appear to be none from the public as  
22 well.

23 VICE-CHAIRMAN LAURA LODES: Staff has  
24 requested that we accept this change and -- the  
25 changes to Subchapter 2 and Appendix Q. Do I have a

30

1 Division at DEQ.

2 Today I am presenting to the Council for their  
3 consideration a Petition for Rulemaking that the  
4 Agency received from the Department of Labor.

5 As I'm sure you are aware, Section 305 of the  
6 Oklahoma Administrative Procedures Act allows  
7 interested persons to petition an administrative  
8 agency to promulgate rules. Specifically, Section 305  
9 provides that an interested party may petition an  
10 agency requesting the promulgation, amendment, or  
11 repeal of an administrative rule. Further, the agency  
12 is to prescribe in its own rules the form for  
13 petitions and the procedure for their submission,  
14 consideration, and disposition.

15 Therefore, DEQ has set forth at Oklahoma  
16 Administrative Code 252:4-5-2(b) that any person may  
17 file a petition with the DEQ formally requesting the  
18 adoption, amendment, or revocation of one or more  
19 rules.

20 The rule further provides that, when a  
21 petition is received, the DEQ shall refer it to the  
22 appropriate council for review and the petition should  
23 be placed on the Agenda for the next available Council  
24 meeting for action.

25 After consideration -- after considering the

32

1 petition today, the Council will have two options:  
2 The Council may choose to deny the petition or the  
3 Council may choose to grant the petition and have DEQ  
4 proceed with rulemaking based upon the request in the  
5 petition.

6 If the Council chooses to grant the petition,  
7 DEQ would notice the rule for public comment and set  
8 the proposed rule for hearing at our next Council  
9 meeting.

10 As I said, on September 27th, 2016, we  
11 received a petition for rulemaking from the Oklahoma  
12 Department of Labor. Division Director Eddie Terrill  
13 has been in contact with the Department of Labor and  
14 informed them that the Council will be considering the  
15 petition at this meeting.

16 Specifically, the petition states that the  
17 Department of Labor recently conducted a public  
18 meeting for asbestos abatement activities at which  
19 members of the asbestos abatement industry expressed  
20 concerns that commercial building demolitions are  
21 being conducted on sites containing greater than 1%  
22 friable asbestos without the proper notification and  
23 safety procedures required by the NESHAP being  
24 followed.

25 Therefore, the petition includes a proposed

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1 rule, which we -- should be in your packets, that  
2 would require that, prior to commencing demolition or  
3 renovation activities, a copy of all inspections or  
4 surveys conducted pursuant to 40 CFR Section 61.145(a)  
5 be submitted to DEQ, seemingly to make DEQ aware of  
6 the presence or absence of asbestos and/or  
7 asbestos-containing material at the site.

8 As you are probably aware, DEQ does have  
9 delegation of the federal asbestos rules found at 40  
10 CFR Part 61, Subpart M, and the same is incorporated  
11 into our rules. The petition proposes to add this  
12 reporting requirement to Chapter 40 of DEQ's rules;  
13 that subchapter is Control of Emission of Friable  
14 Asbestos During Demolition and Renovation Operations.

15 Neither the federal rule nor Subchapter 40  
16 currently require those survey or inspections to  
17 determine the presence of regulated  
18 asbestos-containing material at the site be submitted,  
19 but in practice almost all contractors do submit the  
20 survey results when they send us their notification of  
21 demolition or renovation pursuant to the rule.

22 That concludes my presentation. Do you guys  
23 have any questions for me?

24 MS. CHERYL BRADLEY: Questions from the  
25 Council?

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1 VICE-CHAIRMAN LAURA LODES: So you guys  
2 know -- let me make sure I'm clear. All we're doing  
3 for this is we're just recommending that the DEQ look  
4 at making a proposed rule?

5 MS. LAURA FINLEY: Correct. Granting or  
6 denying the petition.

7 MR. GARY COLLINS: Is there not any language  
8 currently that is similar to that in 40?

9 MS. LAURA FINLEY: No, there's not. 40 -- our  
10 40 is really small, because mostly we just  
11 incorporated the federal rule, so we just rely on the  
12 federal rule.

13 MS. CHERYL BRADLEY: Any other questions from  
14 the Council?

15 MR. JIM HAUGHT: No discussion or comment of  
16 what the staff is wanting us to do on this?

17 MS. LAURA FINLEY: I think you know that we've  
18 considered it. You know, I have asked our guy that  
19 kind of works on it and we already receive these  
20 almost every time. So I don't think anybody -- I  
21 don't think anybody cares either way really.

22 I can let Beverly or Cheryl or Eddie, if they  
23 have any comments. But that's been the -- kind of the  
24 feedback that I've gotten, that nobody really cares  
25 either way, because we already get them. And they get

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1 them both at our Oklahoma City and our Tulsa office,  
2 that this was sort of a matter of practice that they  
3 do.

4 MR. GARY COLLINS: Does the Department of  
5 Labor get notification as well?

6 MS. LAURA FINLEY: That -- on this, I don't  
7 know if they get this particular notification, because  
8 this is our part of the rule that we -- that we have  
9 jurisdiction over.

10 MR. GARY COLLINS: So does the Department --  
11 the Department of Labor does not have authority or  
12 delegation for the federal program?

13 MS. LAURA FINLEY: They have the OSHA part of  
14 it, is my understanding. Ours is just we receive the  
15 notification of demolition. They have to provide us  
16 that part of the notification. And then they have  
17 to -- then the other part of our jurisdiction is the  
18 waste disposal, disposing of it. So Subpart M. We do  
19 have delegation of Subpart M and they do not, because  
20 Department of Labor has sort of the OSHA part of it.

21 MR. GARY COLLINS: So what do we currently do  
22 with the notifications that we have?

23 MS. LAURA FINLEY: You know, that I don't  
24 know. I mean, we -- they have to provide us  
25 notification. If we get a complaint that someone is

36

1 doing a demolition or a renovation and then we look  
2 and we see that we don't have a notification, then  
3 we'll go out and we'll inspect the site and we may or  
4 may not pursue enforcement. So what we do with the  
5 notification, I'm not sure.

6 MR. GARY COLLINS: I was curious if we're  
7 doing anything proactive. I mean, is the DEQ doing  
8 anything with the notification? Anything in advance  
9 of the demolition?

10 MS. LAURA FINLEY: No.

11 MR. EDDIE TERRILL: Well, this is Eddie  
12 Terrill. We do sometimes. We do use that for spot  
13 checks. They don't go out and look at them.

14 Now we'll share these with DOL when they ask  
15 for them. I suspect there is more to this than what  
16 we're seeing here. And the purpose of this coming  
17 back in January would be get DOL to come and explain  
18 to the Council why they believe this is something that  
19 we need to add to our rules, but also give the  
20 regulated community an opportunity to come and say  
21 they either support it or they don't. And then, like  
22 we do on most things, we'll make our best-informed  
23 decision based on the information that we've got.

24 As Laura said, this is something that they're  
25 required to conduct. What's not in the federal rule

37

1 consideration in January.

2 We're agnostic about it. I don't know if it's  
3 necessary, but they should be able to present their  
4 case as to why the rule is necessary in January. And  
5 if they can't, we don't have to pass it.

6 MR. MONTELLE CLARK: Maybe I'm missing  
7 something. But how would this proposed rule change  
8 alleviate the concerns that are raised in the letter,  
9 the allegations that are raised in the letter?

10 MR. EDDIE TERRILL: Well, for those companies  
11 that are not submitting the survey as a practical  
12 matter, where it's a matter of voluntary submittal of  
13 their notice, it would require all of them to do it.  
14 So I guess there is some concern that those that  
15 aren't aren't doing the survey. We don't have any  
16 reason to believe that's the case, but, apparently,  
17 they do.

18 MR. MONTELLE CLARK: That sounds to me like it  
19 would be an enforcement issue already, is it not?

20 VICE-CHAIRMAN LAURA LODES: Right now my  
21 understanding is they're not required to submit those  
22 reports. The federal rule requires them to prepare  
23 it, it does not require submission.

24 MR. EDDIE TERRILL: That's correct.

25 MS. LAURA FINLEY: So, yes. The answer to

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1 is a requirement to submit that to the agency, which  
2 is us. So this would just add that requirement that  
3 they would do something most of them are already  
4 doing.

5 But there must be a significant number, maybe  
6 not a significant number, but a number that constitute  
7 companies of concern to DOL that aren't doing it that  
8 they're asking for this. But it will give them the  
9 opportunity to come and explain exactly why they  
10 believe this is a needed addition to our rules.

11 MR. MONTELLE CLARK: Is there no one here  
12 today from DOL?

13 MR. EDDIE TERRILL: No, but I told them, that  
14 since we were in Tulsa and they're on limited staff,  
15 that I would run it by the Chair and Co-Chair when we  
16 did our pre-meeting and, if there was any indication  
17 they wouldn't at least recommend or they weren't --  
18 wouldn't recommend that we bring this back up, that  
19 they show up.

20 And so they're under the assumption that you  
21 guys would probably just -- would at least recommend  
22 that we would at least bring this back and then they  
23 can show up at the January meeting and defend the rule  
24 or not. Because this -- all that really does is ask  
25 us to bring something back to you all for

38

1 your question, yes, it is an enforcement issue. If  
2 they're not doing the survey, whether they send us the  
3 results or not, then they're in violation of the rule  
4 certainly.

5 MR. MONTELLE CLARK: But if they're doing --  
6 if they're doing a demolition, they're in violation  
7 already.

8 MS. LAURA FINLEY: Right.

9 MR. MONTELLE CLARK: Even without submitting  
10 the survey.

11 MS. LAURA FINLEY: Right.

12 MR. MONTELLE CLARK: So then if --

13 MS. LAURA FINLEY: If they didn't do the  
14 survey, then they probably didn't send us a  
15 notification either.

16 MR. MONTELLE CLARK: Right. Right.

17 MS. LAURA FINLEY: So yeah. It's sort of that  
18 same thing. You're scooping in people who are already  
19 in trouble, I think.

20 MR. MONTELLE CLARK: I'm not sure why we have  
21 added an extra layer on here when they're already in  
22 violation. So this isn't just -- this is really just  
23 an enforcement issue, rather than a rule issue.

24 MR. EDDIE TERRILL: Again that is something  
25 that DOL will have to explain when we bring that rule,

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1 because I can't speak for them. I honestly don't know  
2 what their real issue is here. But it's, obviously,  
3 something more than what's in the petition, because  
4 they have brought this up a couple of times, that it's  
5 an issue that they're hearing about from their -- the  
6 folks that they regulate as part of the OSHA part of  
7 it.

8 MR. MONTELLE CLARK: So if it is an  
9 enforcement issue, does that make it a DOL enforcement  
10 issue or a DEQ enforcement issue?

11 MR. EDDIE CLARK: It would be a DEQ  
12 enforcement issue.

13 MR. GARY COLLINS: Okay. I'm with Montelle,  
14 struggling with how that changes. But I think it's  
15 good to bring it forward and let the DOL tell us what  
16 does that change. Adding that language, what does  
17 that change to the issue of people conducting  
18 demolitions without doing the survey.

19 I think it's valuable to bring it forward and  
20 have them present at the next meeting.

21 MS. LAURA FINLEY: Perhaps if there really is  
22 an issue of people going ahead and going forward with  
23 demolitions and not complying with the rule, then, I  
24 mean, it may be that at that discussion at another  
25 Council meeting we could find another way.

41

1 violating the worker rules also, which DOL does have  
2 enforcement authority over. Something they have got  
3 them. So talk to them.

4 I mean I'd be concerned that they're not just  
5 wanting to shift that burden of inspection and  
6 enforcement to the DEQ to get it off of them, because  
7 I think they can enforce on anything you can enforce  
8 on. And so maybe if anything had friable asbestos and  
9 they didn't address it, I'm not so sure they are not  
10 trying to do that as well.

11 MR. EDDIE TERRILL: I don't think they're  
12 trying to shift it to us. I don't get that indication  
13 at all. If anything, the concerns I've heard, and  
14 this is just anecdotal, is that DOL is looking to  
15 expand their role in this program.

16 And they've approached us in the past about  
17 assuming this whole program. And to be honest,  
18 totally honest about it, our relationship with DOL has  
19 not been the best down through the years. We  
20 periodically go through these love/hate relationships  
21 in our dual authority over the NESHAP program. We're  
22 actually in a pretty good place with them right now,  
23 that we are working well with them again. And I would  
24 really like to continue that.

25 So that's another reason I'd really like to

43

1 If this isn't the way, maybe there's another  
2 better way to make sure that we're getting everyone in  
3 compliance with the rule and doing things properly.

4 Maybe this -- maybe we could tweak it, you  
5 know. I mean, they've got a proposed rule, but  
6 certainly that would be what the next Council meeting  
7 would be for. Perhaps they have other suggestions and  
8 we could discuss it further.

9 MR. GARY COLLINS: I'm curious the events that  
10 have occurred historically that maybe they're  
11 concerned about. What's the -- what's the enforcement  
12 look back? So is there going to be some burden for  
13 the DEQ to -- is DOL asking for DEQ to go back and  
14 look at some of the sites that -- where demolition  
15 occurred that the survey was not conducted? Do you  
16 know?

17 MS. LAURA FINLEY: They -- we don't have any  
18 indication of that. I don't.

19 MR. EDDIE TERRILL: I don't have any  
20 indication that that's the case at all. I think it's  
21 looking forward.

22 MR. JIM HAUGHT: Yeah. I think it's important  
23 just to investigate it more and take a look at it.  
24 But and if people aren't doing that, not only would  
25 they be violating the Air Quality rules, they would be

42

1 give them the opportunity to come forward and explain  
2 what it is that they're going to gain from this  
3 addition to our rule that they're not already getting.  
4 What's not happening.

5 And it could be just that there's a lot of  
6 competition in this industry and it could be that the  
7 concerns are really from the companies who are doing  
8 this already and are concerned that they're being  
9 underbid, undercut on the contract, by those that  
10 aren't. I don't know how realistic that is. I have  
11 my doubts. But that's something that I'm sure will  
12 come out when we bring it back.

13 MR. GARY COLLINS: Okay. So what kind of  
14 motion do you need? Accept the petition? Is that  
15 what we're accepting?

16 VICE-CHAIRMAN LAURA LODES: That's all we'll  
17 do, but I think we need to ask for -- have we asked  
18 the public yet?

19 MS. CHERYL BRADLEY: No, we have not.

20 VICE-CHAIRMAN LAURA LODES: We need to do  
21 that.

22 MS. CHERYL BRADLEY: Would anyone from the  
23 public wish to make a statement? It appears that  
24 there are none, so we can move on to the Council  
25 action.

44

1 MR. JIM HAUGHT: Okay. I have one question  
2 about the Council action. Is this required that this  
3 be presented back at the next meeting? I guess if  
4 we're going to make the motion, I hate to make it  
5 specific to January, if that's not reasonable, if  
6 staff wants more time to prepare something.

7 MS. LAURA FINLEY: The rule doesn't specify  
8 that it has to be at the next meeting. It just --  
9 what we would be doing really today is just granting  
10 the petition and then allowing us to proceed with  
11 rulemaking. And so whenever we have the rule ready,  
12 then that's when we'll bring it back to the Council.

13 MR. JIM HAUGHT: So a motion shouldn't include  
14 that specific date?

15 MS. LAURA FINLEY: No, just do grant or deny,  
16 I think, is sufficient.

17 VICE-CHAIRMAN LAURA LODES: So my  
18 understanding is that just all we needed to do is that  
19 the Council needs to, yes, we'll grant the petition,  
20 and then that kicks it into the DEQ's court.

21 Any further questions for this?

22 My understanding is that the DEQ will have to  
23 do something with this. If we grant this petition for  
24 rulemaking, they'll work with the Department of Labor  
25 on a rule development and something will come back to

45

1 would be locked into actually making a rule.

2 MR. MONTELLE CLARK: Okay.

3 MS. LAURA FINLEY: But don't -- don't quote  
4 me. I'll find out.

5 VICE-CHAIRMAN LAURA LODES: Okay. Do we have  
6 a motion to accept the petition or to grant the  
7 petition?

8 MR. JIM HAUGHT: I'll make a motion that the  
9 Council accept the petition for rulemaking presented  
10 by the Department of Labor to the DEQ -- okay -- DEQ  
11 from the letter dated September 23rd, 2016.

12 MR. GARY COLLINS: I'll second that.

13 VICE-CHAIRMAN LAURA LODES: I have a motion  
14 and a second. Will you, please, call roll?

15 MS. QUIANA FIELDS: Mr. Clark?

16 MR. MONTELLE CLARK: Yes.

17 MS. QUIANA FIELDS: Mr. Collins?

18 MR. GARY COLLINS: Yes.

19 MS. QUIANA FIELDS: Mr. Gamble?

20 MR. DAVID GAMBLE: Yes.

21 MS. QUIANA FIELDS: Mr. Haught?

22 MR. JIM HAUGHT: Yes.

23 MS. QUIANA FIELDS: Ms. Lodes?

24 VICE-CHAIRMAN LAURA LODES: Yes.

25 MS. QUIANA FIELDS: Motion passed.

47

1 us at some point. Correct?

2 MS. LAURA FINLEY: Right.

3 VICE-CHAIRMAN LAURA LODES: Okay.

4 MR. MONTELLE CLARK: My concern is that we're  
5 just -- I don't want to create work for staff that is  
6 unnecessary, if you find that this rule is  
7 unnecessary. I don't want you to have to do a  
8 rulemaking just because we said do a rulemaking.

9 If you meet with the DOL and then find that  
10 this is really an enforcement issue or can be taken  
11 care of in some other manner, I don't want you to have  
12 to spend staff time on it.

13 MS. LAURA FINLEY: And, you know, I get a  
14 little blurry on what the procedure would be at that  
15 point. But perhaps -- I think we would, at the very  
16 least, bring it to the Council. And we could always,  
17 you know, have DOL with us and say, oh, here's the  
18 sort of resolution. And in lieu of rulemaking, here  
19 is the resolution that we have and we could put it to  
20 a vote. I'm not sure, but I can certainly check on  
21 that. And we can -- we can discuss it.

22 MR. MONTELLE CLARK: Yeah. If that's an  
23 option. I'm just trying to be practical and aware of  
24 your time on something if it's not necessary.

25 MS. LAURA FINLEY: I can't imagine that we

46

1 VICE-CHAIRMAN LAURA LODES: I want to go back  
2 to the minutes for a moment, since we had the second  
3 motion to carry them over. Since, according to her  
4 *Robert's Rules of Order*, since Laura was kind enough  
5 to bring it with us, I believe that a simple majority  
6 will pass.

7 Would you, please, read back the vote, the  
8 initial vote of the simple majority on the rule -- on  
9 the minutes from the January meeting? It was the  
10 first item.

11 MS. QUIANA FIELDS: Approval of the minutes  
12 for the January 20th, 2016 Regular Meeting.

13 VICE-CHAIRMAN LAURA LODES: What were the  
14 results of that?

15 MS. QUIANA FIELDS: The results were: Montelle  
16 Clark, abstain; Mr. Collins, abstain; Mr. Gamble,  
17 approved; Mr. Haught, approved; and Ms. Lodes,  
18 approved.

19 VICE-CHAIRMAN LAURA LODES: My understanding  
20 is that, since we had a simple majority, that passed  
21 it.

22 MR. JIM HAUGHT: Well, was that the majority  
23 of the members present?

24 VICE-CHAIRMAN LAURA LODES: Of the Council  
25 present.

48

1 MR. JIM HAUGHT: Or a majority of the Council?  
2 MS. LAURA FINLEY: The majority of the members  
3 present.

4 VICE-CHAIRMAN LAURA LODES: The majority  
5 present. Okay. So we made a second motion to carry  
6 it forward. Do we need to do anything to get rid of  
7 that motion?

8 MS. LAURA FINLEY: That's the question I just  
9 asked Madison. And if you give me a minute to look, I  
10 can find something. But the vote to approve the  
11 minutes came first, and so --

12 VICE-CHAIRMAN LAURA LODES: Which should trump  
13 the --

14 MS. LAURA FINLEY: So I would say they're  
15 approved.

16 VICE-CHAIRMAN LAURA LODES: I would say  
17 they're approved.

18 MS. LAURA FINLEY: That's what I'm thinking.

19 VICE-CHAIRMAN LAURA LODES: So do we want to  
20 say they're approved and move forward?

21 MS. LAURA FINLEY: Sure.

22 VICE-CHAIRMAN LAURA LODES: Okay. We're going  
23 to say that the --

24 MS. LAURA FINLEY: But if you want to be safe,  
25 we could do some sort of vote to not carry over or

49

1 going, so we've got this correct.

2 So because we made two motions earlier, we  
3 need to get rid of that second motion where we moved  
4 to carry over the minutes.

5 MS. LAURA FINLEY: So move to not carry over.

6 VICE-CHAIRMAN LAURA LODES: Yes. We need -- I  
7 need -- we need a -- I now need a motion to not carry  
8 over the minutes.

9 MR. DAVID GAMBLE: I move we make a motion to  
10 not carry --

11 VICE-CHAIRMAN LAURA LODES: I just need you to  
12 make a motion.

13 MR. DAVID GAMBLE: Make a motion.

14 VICE-CHAIRMAN LAURA LODES: To not carry over.

15 MR. DAVID GAMBLE: To not carry over the --

16 VICE-CHAIRMAN LAURA LODES: January minutes.

17 MR. DAVID GAMBLE: January minutes.

18 VICE-CHAIRMAN LAURA LODES: To the January

19 2017 --

20 MR. DAVID GAMBLE: To the next meeting.

21 VICE-CHAIRMAN LAURA LODES: Thank you. I need  
22 a second.

23 MR. JIM HAUGHT: I'll second that.

24 VICE-CHAIRMAN LAURA LODES: And I will restate  
25 that for you. I have a motion to not carry over the

51

1 something. But -- if you wanted to -- yeah. If it  
2 turns out we're wrong.

3 VICE-CHAIRMAN LAURA LODES: Okay. We'll bring  
4 it back if it turns out we're wrong. Otherwise, we're  
5 going to assume the minutes were approved from the  
6 January meeting and we're going to disregard the  
7 second motion, unless we find out that we were wrong.

8 MS. LAURA FINLEY: Okay.

9 VICE-CHAIRMAN LAURA LODES: Okay.

10 MS. CHERYL BRADLEY: That concludes the  
11 hearing portion of the meeting. And now we can move  
12 on to the presentations.

13 (Pause.)

14 VICE-CHAIRMAN LAURA LODES: Let's take a short  
15 break. It says 10:18. Let's start back at 10:25. So  
16 that gives us seven minutes.

17 RECESS - 10:18 A.M.

18 RECALL TO ORDER - 10:30 A.M.

19 VICE-CHAIRMAN LAURA LODES: We are going to  
20 reopen the hearing portion of this meeting and we are  
21 going to -- I need a motion that we move to not carry  
22 over Approval of the Minutes and defer to the original  
23 motion. And I need a second of this to approve  
24 wherein the minutes -- wherein the minutes were  
25 originally approved. And we have our court reporter

50

1 minutes from the January 2016 meeting to the January  
2 2017 meeting and I have a second.

3 Would you, please, call roll?

4 MS. QUIANA FIELDS: Mr. Clark.

5 VICE-CHAIRMAN LAURA LODES: Mr. Clark? I need  
6 you to do this.

7 MR. MONTELLE CLARK: I have been abstaining  
8 because --

9 VICE-CHAIRMAN LAURA LODES: No, you did. You  
10 did vote yes on the motion to carry them forward.

11 MR. MONTELLE CLARK: I thought I abstained.

12 VICE-CHAIRMAN LAURA LODES: No, you -- the  
13 only thing you abstained on was approving the minutes  
14 themselves.

15 MR. MONTELLE CLARK: Even in light of me not  
16 being present at the last meeting?

17 VICE-CHAIRMAN LAURA LODES: Yes.

18 MR. GARY COLLINS: That is being coached under  
19 duress.

20 VICE-CHAIRMAN LAURA LODES: So you did  
21 actually vote on the motion to carry it forward. You  
22 voted yes. We had all five voted yes on the motion to  
23 carry it forward.

24 MS. BEVERLY BOTCHLET-SMITH: But he can vote  
25 however he wants.

52



1 VICE-CHAIRMAN LAURA LODES: But you may vote  
 2 however you want. All I need is a simple majority  
 3 here.  
 4 MR. MONTELLE CLARK: I vote yes.  
 5 MS. QUIANA FIELDS: Mr. Collins?  
 6 MR. GARY COLLINS: Yes.  
 7 MS. QUIANA FIELDS: Mr. Gamble?  
 8 MR. DAVID GAMELE: Yes.  
 9 MS. QUIANA FIELDS: Mr. Haught?  
 10 MR. JIM HAUGHT: Yes.  
 11 MS. QUIANA FIELDS: Ms. Lodes?  
 12 VICE-CHAIRMAN LAURA LODES: Yes.  
 13 MS. QUIANA FIELDS: Motion passed.  
 14 VICE-CHAIRMAN LAURA LODES: We now conclude  
 15 the hearing portion of this meeting and we'll move to  
 16 the presentations. Thank you, gentlemen.  
 17 (Whereupon, presentations were made, after  
 18 which the meeting was adjourned.)  
 19 ADJOURNMENT - 11:20 A.M.  
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 24  
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53

1 \* \* C E R T I F I C A T E \* \*  
 2 STATE OF OKLAHOMA )  
 3 COUNTY OF OKLAHOMA ) SS:  
 4  
 5 I, Lynette Wrany, a Certified Shorthand Reporter  
 6 within and for the State of Oklahoma, do hereby  
 7 certify that I reported all of the foregoing meeting,  
 8 and that I later reduced it to typewritten form, as  
 9 the same appears herein.  
 10 I further certify that I am not a relative of,  
 11 nor attorney for, nor clerk or stenographer for any  
 12 party to this meeting, and that I am not otherwise  
 13 interested in the event of the same.  
 14 I further certify that the above and foregoing  
 15 typewritten pages contain a full, true and correct  
 16 transcript of my stenographic notes so taken, during  
 17 said meeting.  
 18 WITNESS my hand and seal this the 17th day of  
 19 October, 2016.  
 20  
 21  
 22  
 23  
 24  
 25

*Lynette Wrany*

LYNETTE WRANY, C.S.R.  
 Oklahoma Certified Shorthand Reporter  
 Certificate No. 1167  
 Expiration Date: December 31, 2016

54



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Attendance Record

October 12, 2016

Owasso, Oklahoma

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MELANIE FOSTER	DEQ	
Quiana Fields	DEQ	
Eddie Terrell	DEQ	
Beverly Batchlet-Smith	DEQ	
Nancy Marshment	DEQ-AQD	
BROOKS Kirlin	DEQ-AQD	
Madison Nimer	DEQ	
Laura Finley	PER	
LEON ASHFORD	DEQ	
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October 12, 2016

Owasso, Oklahoma

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Jim Haught	AQC	
Mark Lawson	Spirit Aero Systems	
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Laura Liles	AQC	