

**MINUTES**  
**WATER QUALITY MANAGEMENT ADVISORY COUNCIL**  
**January 8, 2019**  
**Oklahoma Department of Environmental Quality**  
**Multipurpose Room**  
**Oklahoma City, Oklahoma**

**Official WQMAC**  
**To be approved at the October 1, 2019 Meeting**

**Notice of Public Meeting** – The Water Quality Management Advisory Council (WQMAC) convened for a Regular Meeting at 2:00 p.m. at the Oklahoma Department of Environmental Quality (DEQ), 707 North Robinson, Oklahoma City, Oklahoma. The meeting was held in accordance with the Open Meeting Act, with notice of the meeting given to the Secretary of State on October 11, 2018. The agenda was posted at DEQ twenty-four hours prior to the meeting. Mr. Brian Duzan, Chair, called the meeting to order. Ms. Quiana Fields called roll and confirmed that a quorum was present.

**MEMBERS PRESENT**

Robert Carr  
 Brian Duzan  
 Alexandria Kindrick  
 Mark Matheson  
 Jon Nelson  
 Jim Rodriguez  
 Jeff Short  
 Steve Sowers  
 Duane Winegardner

**MEMBERS ABSENT**

Debbie Wells  
 Terry Wyatt

**DEQ STAFF PRESENT**

Shellie Chard  
 Chris Armstrong  
 Jeff Franklin  
 Mark Hildebrand  
 Sarah Penn  
 Betsey Streuli  
 David Caldwell  
 Stephen Baldridge  
 Hillary Young  
 Pam Dizikes  
 Lee Dooley  
 Michelle Wynn  
 Saba Tahmassebi  
 Greg Carr  
 Traci Kelly  
 Quiana Fields

**OTHERS PRESENT**

Brenda Plumbtree, Court Reporter

**Approval of Minutes from the September 25, 2018 Meeting** – Mr. Duzan called for a motion to approve the Minutes of the September 25, 2018 Regular Meeting. Mr. Winegardner moved to approve and Mr. Nelson made the second.

	<i>See transcript pages 4 – 5</i>		
Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Abstain	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**ELECTION OF THE VICE-CHAIR** – Mr. Duzan opened discussion for nominations for Vice-Chair. Ms. Kindrick nominated Mr. Winegardner for Vice-Chair and Mr. Rodriguez made the second.

*See transcript pages 5 – 6*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**ELECTION OF THE CHAIR** – Mr. Winegardner opened discussion for nominations for Chair. Mr. Nelson nominated Mr. Duzan for Chair and Mr. Sowers made the second.

*See transcript pages 6 – 7*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**PERMANENT RULEMAKING – OAC 252:301 – LABORATORY ACCREDITATION** –

Mr. Chris Armstrong, Director of the SELS, stated that the DEQ staff will be proposing to: add definitions for “Critical Finding” and “Finding”; include Escherichia coli to the basic environmental laboratory analytes for general water quality laboratories; add a new fee to recover the actual cost for performing on-site evaluations; replace the word “inspection” with the term “evaluation” in parts of the Chapter; clarify the circumstances and frequency for conducting on-site evaluations; delete an unneeded reference to the National Environmental Laboratory Accreditation Conference; update the rule concerning the date of incorporation by reference of certain federal regulations and EPA methods from July 1, 2012 to July 1, 2018; increase the record retention requirement for laboratory QA/QC program from three years to five years; delete the option to test spike duplicates once per month; add language to clarify that support equipment is to be calibrated or verified at least annually and make other minor clarifications and corrections. Following a lengthy discussion by the Council and by the public, Mr. Duzan called for a motion. As Mr. Short begins his motion there was some uncertainty so Ms. Shellie Chard, Division Director of the WQD, asked if Mr. Short could temporarily withdraw his motion and advise the Council to take a five minute break so the staff could get a question answered by the General Counsel before moving forward with the motion. Mr. Short withdrew his motion. Following the break, the Council reconvened and Mr. Armstrong made a proposal and stated to the Council, “I’d like to propose that we make a language change at 252:301-1-9 fees, (e) and that change would be after cost we would include not to exceed \$10,000 per individual laboratory”, which will read, “an onsite evaluation fee shall be calculated at actual cost, not to exceed \$10,000 per individual laboratory and dot, dot, dot.” Following additional questions by the Council and the public regarding the proposal, Mr. Duzan called for a motion. Mr. Short moved to accept the changes presented before the Council today (January 8, 2019) with the inclusion of the proposal that has been made. Mr. Matheson made the second.

*See transcript pages 7 – 53*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**PERMANENT RULEMAKING – OAC 252:302 – FIELD LABORATORY ACCREDITATION** – Mr. Armstrong stated that the DEQ staff will be proposing to: add definitions for “Critical Finding” and “Finding”; clarify the definition of “Interim accreditation”; add a new fee to recover the cost for DEQ staff performing on-site evaluations; replace the word “inspection” with the term “evaluation” in parts of the Chapter; delete redundant language and broaden the educational and training requirements of the laboratory technician; clarify the circumstances and frequency for conducting on-site evaluations; add language requiring Proficiency Testing (PT) samples to be provided by a National Environmental Laboratory Accreditation Program (NELAP) approved PT provider; update the rule concerning the date of incorporation by reference of certain federal regulations from July 1, 2012 to July 1, 2018; add language to clarify that sample storage thermometers are to be calibrated or verified at least annually, using a recognized National Metrology Institute such as NIST and make other minor clarifications and corrections. Hearing no discussion by the Council or by the public, Mr. Duzan called for a motion. Mr. Short moved to approve to accept the rule as presented and Mr. Nelson made the second.

*See transcript pages 53- 56*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**PERMANENT RULEMAKING – OAC 252:307 – TNI LABORATORY ACCREDITATION** – Mr. Armstrong stated the DEQ staff will be proposing to: add definitions for “critical nonconformity” and “nonconformity”; include Escherichia coli as an analyte in the basic environmental laboratory definition; update the rule concerning the date of incorporation by reference of certain federal regulations and EPA methods from July 1, 2014 to July 2018; add a new fee to recover the actual cost for performing on-site evaluations; clarify failure to perform Proficiency Testing (PT) language, including the suspension policy and make other minor clarifications and corrections. Hearing no discussion by the Council or by the public, Mr. Duzan called for a motion. Mr. Rodriguez moved to approve and Mr. Matheson made the second. Ms. Chard stated for the record, to clarify that Mr. Rodriguez motion was to accept the language with the edits that were provided today (January 8, 2019). Mr. Rodriguez stated, “Yes”.

*See transcript pages 57 - 61*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**PERMANENT RULEMAKING – OAC 252:653 – AQUIFER STORAGE AND RECOVERY** – Ms. Hillary Young, Chief Engineer of the LPD, stated that the DEQ staff will be proposing to amend OAC 252:653 to: update the definitions of “Aquifer Storage and Recovery” and “Area of Hydrologic Effect” for consistency with the Oklahoma Water Resources Board; provide permit application fees and annual operating fees for ASR; provide for notification requirements for ASR facilities and provide specific language requiring bench-scale and field-scale pilot testing for evaluating the compatibility of delivered water with the receiving aquifer

for the purpose of ASR. Hearing no discussion by the Council or by the public, Mr. Duzan called for a motion. Mr. Nelson moved to approve and Mr. Short made the second.

*See transcript pages 61- 66*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

**DIRECTOR’S REPORT** – Ms. Chard provided an update on other division activities.

*See transcript pages 66– 72*

**NEW BUSINESS** – None

**ANNOUNCEMENTS** – The next scheduled meeting is on Tuesday, April 23, 2019, 2:00 p. m. at DEQ.

**ADJOURNMENT** – Mr. Duzan called for a motion to adjourn. Mr. Rodriguez moved to adjourn and Mr. Nelson made the second. The meeting was adjourned at 3:54 p.m.

*See transcript pages 72 – 73*

Robert Carr	Yes	Jeff Short	Yes
Alexandria Kindrick	Yes	Steve Sowers	Yes
Mark Matheson	Yes	Duane Winegardner	Yes
Jon Nelson	Yes	Brian Duzan	Yes
Jim Rodriguez	Yes		

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

DEPARTMENT OF ENVIRONMENTAL QUALITY  
WATER QUALITY MANAGEMENT ADVISORY COUNCIL

JANUARY 8th, 2019 at 2:00 P.M.

DEQ BUILDING  
707 NORTH ROBINSON, 1ST FLOOR  
MULTI-PURPOSE ROOM  
OKLAHOMA CITY, OKLAHOMA 73012

REPORTED BY: BRENDA PLUMBTREE, CSR

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1 COUNCIL MEMBERS PRESENT  
2 Mr. Brian Duzan - Chair  
Mr. Jon Nelson  
3 Mr. Jim Rogriguez  
Mr. Jeffrey Short  
4 Ms. Alexandria Kindrick  
Mr. Robert Carr  
5 Mr. Mark Matheson  
Mr. Steve Sowers  
6 Mr. Duane Winegardner  
7 ABSENT COUNCIL MEMBERS  
8 Ms. Terry Wyatt  
Ms. Debbie Wells  
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1 MR. RODRIGUEZ: Here.  
2 MS. FIELDS: Mr. Short.  
3 MR. SHORT: Here.  
4 MS. FIELDS: Mr. Sowers.  
5 MR. SOWERS: Here.  
6 MS. FIELDS: Ms. Wells is absent.  
7 Mr. Winegardner.  
8 MR. WINEGARDNER: Here.  
9 MS. FIELDS: Ms. Wyatt is absent.  
10 Mr. Duzan.  
11 MR. DUZAN: Here.  
12 MS. FIELDS: We have a quorum.  
13 MR. DUZAN: Okay. The next thing is the  
14 approval of the minutes from the September 25th,  
15 2018 meeting, which everybody should have gotten  
16 ahead of time. Any questions, comments?  
17 MR. WINEGARDNER: Move to approve.  
18 MR. NELSON: Second.  
19 MR. DUZAN: Vote.  
20 MS. FIELDS: Mr. Carr.  
21 MR. CARR: Yes.  
22 MS. FIELDS: Ms. Kindrick.  
23 MS. KINDRICK: Yes.  
24 MS. FIELDS: Mr. Matheson.  
25 MR. MATHESON: Abstain, because I wasn't

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1 MR. DUZAN: This regular meeting of the  
2 Water Quality Management Advisory Council was called  
3 in accordance with the Open Meeting Act.  
4 Notice for this January 8th, 2019 meeting was  
5 filed with the Secretary of State on October 11th,  
6 2018. The Agenda was duly posted at DEQ at least  
7 24 hours prior to the meeting.  
8 Only matters appearing on the posted agenda may  
9 be considered at this regular meeting. In the event  
10 that this meeting is continued or reconvened, public  
11 notice of the date, time and place of the continued  
12 meeting will be given by announcement at this  
13 meeting. Only matters appearing on the agenda of a  
14 meeting, which is continued may be discussed at the  
15 continued or reconvened meeting.  
16 Roll call.  
17 MS. FIELDS: Mr. Carr.  
18 MR. CARR: Here.  
19 MS. FIELDS: Ms. Kindrick.  
20 MS. KINDRICK: Here.  
21 MS. FIELDS: Mr. Matheson.  
22 MR. MATHESON: Here.  
23 MS. FIELDS: Mr. Nelson.  
24 MR. NELSON: Here.  
25 MS. FIELDS: Mr. Rodriguez.

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1 here.  
2 MS. FIELDS: Mr. Nelson.  
3 MR. NELSON: Aye.  
4 MS. FIELDS: Mr. Rodriguez.  
5 MR. RODRIGUEZ: Yes.  
6 MS. FIELDS: Mr. Short.  
7 MR. SHORT: Yes.  
8 MS. FIELDS: Mr. Sowers.  
9 MR. SOWERS: Yes.  
10 MS. FIELDS: Mr. Winegardner.  
11 MR. WINEGARDNER: Yes.  
12 MS. FIELDS: Mr. Duzan.  
13 MR. DUZAN: Yes.  
14 MS. FIELDS: Motion passed.  
15 MR. DUZAN: Okay. Now is the election of  
16 the vice chair for the upcoming year. Nominations?  
17 MS. KINDRICK: I would like to nominate  
18 Duane Winegardner for our vice chair.  
19 MR. DUZAN: Do we have a second?  
20 MR. RODRIGUEZ: Second.  
21 MR. DUZAN: Any other nominations or  
22 discussion? Vote.  
23 MS. FIELDS: Mr. Carr.  
24 MR. CARR: Yes.  
25 MS. FIELDS: Ms. Kindrick.

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1 MS. KINDRICK: Yes.  
2 MS. FIELDS: Mr. Matheson.  
3 MR. MATHESON: Yes.  
4 MS. FIELDS: Mr. Nelson.  
5 MR. NELSON: Yes.  
6 MS. FIELDS: Mr. Rodriguez.  
7 MR. RODRIGUEZ: Yes.  
8 MS. FIELDS: Mr. Short.  
9 MR. SHORT: Yes.  
10 MS. FIELDS: Mr. Sowers.  
11 MR. SOWERS: Yes.  
12 MS. FIELDS: Mr. Winegardner.  
13 MR. WINEGARDNER: Yes.  
14 MS. FIELDS: Mr. Duzan.  
15 MR. DUZAN: Yes.  
16 MS. FIELDS: Motion passed.  
17 MR. DUZAN: Okay. Duane, you --  
18 MR. WINEGARDNER: I guess so. We will  
19 accept nominations for the chair position.  
20 MR. NELSON: I would nominate Brian to  
21 continue in the position.  
22 MR. SOWERS: Second.  
23 MR. WINEGARDNER: Are there any other  
24 nominations? Okay. I believe we're ready for a  
25 vote then.

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1 MS. FIELDS: Mr. Carr.  
2 MR. CARR: Yes.  
3 MS. FIELDS: Ms. Kindrick.  
4 MS. KINDRICK: Yes.  
5 MS. FIELDS: Mr. Matheson.  
6 MR. MATHESON: Yes.  
7 MS. FIELDS: Mr. Nelson.  
8 MR. NELSON: Yes.  
9 MS. FIELDS: Mr. Rodriguez.  
10 MR. RODRIGUEZ: Yes.  
11 MS. FIELDS: Mr. Short.  
12 MR. SHORT: Yes.  
13 MS. FIELDS: Mr. Sowers.  
14 MR. SOWERS: Yes.  
15 MS. FIELDS: Mr. Winegardner.  
16 MR. WINEGARDNER: Yes.  
17 MS. FIELDS: Mr. Duzan.  
18 MR. DUZAN: Yes.  
19 MS. FIELDS: Motion passed.  
20 MR. WINEGARDNER: Take the chair again.  
21 MR. DUZAN: Okay. The next thing on the  
22 deal is permanent rulemaking to the OAC 252:301  
23 Laboratory Accreditation. I believe we have Chris  
24 Armstrong here to start this off.  
25 MR. ARMSTRONG: Can you hear me? Okay.

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1 Good afternoon everyone. I'm Chris Armstrong. I'm  
2 the director of State Environmental and Labs here at  
3 the DEQ.  
4 I want to thank the council members for  
5 attending this afternoon, as well as the regulated  
6 community and the public.  
7 Before we dive into rulemaking I have a few  
8 comments based on looking back and forward with the  
9 laboratory accreditation program. From the  
10 beginning of modern public health in the United  
11 States, the county health departments performed much  
12 of the analytical testing, testing for dairy, meat  
13 products, clinical testing for the ill, and  
14 environmental testing beginning with water quality.  
15 With the creation of the Oklahoma State Department  
16 of Health much of the oversight for these types of  
17 programs and tests became their authority.  
18 The DEQ Laboratory Certification Program had its  
19 beginnings from the Oklahoma Water Resources Board,  
20 Water Pollution Program. And the OSDH's program for  
21 the bacteriological testing of drinking water. As  
22 additional federal programs have matured, the Clean  
23 Water Act, the Safe Drinking Water Act, RCRA,  
24 Superfund, CERCLA, the complexity of laboratory  
25 testing and accreditation has steadily increased.

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1 Our regulators require an ever increasing  
2 competency for the data that is reported and  
3 utilized. And the public and industry demand  
4 competent data for sound public health decisions, as  
5 well as the appropriate expenditure of funds for  
6 water and waste water treatment plant design,  
7 construction and modification.  
8 The expense of water and land remediation for  
9 past environmental pollution, as well as new  
10 pollutants continues to soar. As the type and  
11 number of pollutants requiring compliance monitoring  
12 continues to expand the need for sound, reliable and  
13 reproducible data of a known quality is a priority  
14 for these decisions that may cost millions of  
15 dollars and protect our citizens.  
16 The DEQ Laboratory Accreditation Program is a  
17 complex program. And as the type and number of  
18 pollutants continues to expand, so does the  
19 complexity for testing oversight. The quality data  
20 is imperative to us all. Today's rulemaking is a  
21 reflection of laboratory accreditation complexity  
22 and the need for laboratory oversight.  
23 And with that I'm going to jump right into  
24 Chapter 301 Laboratory Accreditation. The gist of  
25 these rules and the underlying reason for this

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1 rulemaking is to make the Laboratory Accreditation  
2 Rules internally consistent, to update accreditation  
3 requirements to reflect current EPA standards for  
4 analysis, and to make program fees more closely  
5 approximate program costs for accreditation.  
6 The Department is proposing to amend 301-1-3,  
7 Definitions, to correct typographical errors, and by  
8 inclusion of new definitions for the terms finding  
9 and critical finding.  
10 Additionally, the Department is proposing to  
11 amend 301-1-7(b) to include escherichia coli among  
12 the basic environmental laboratory analytes for  
13 general water laboratories.  
14 The Department is proposing to amend 301-1-9,  
15 Fees, adding a new fee to recover the actual cost  
16 for assessors' time and effort in performing on-site  
17 evaluations. The gist of this rule is to more  
18 accurately reflect the Department's full cost for  
19 performing laboratory accreditation and reduce  
20 reliance on state appropriated funds.  
21 The Department is proposing in 301-3-3, and  
22 thereafter throughout Chapter 301, to delete the  
23 word inspection and substitute the term evaluation.  
24 Additionally the Department is proposing at  
25 301-5-4, On-site Inspections, to clarify the

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1 circumstances and frequency for conducting on-site  
2 evaluations.  
3 The Department is proposing to amend 301-7-2,  
4 Participation Required, by deleting an unneeded  
5 reference to the National Environmental Laboratory  
6 Accreditation Conference.  
7 The Department is proposing to amend 301-9-37,  
8 Methodology Incorporated, by reference to  
9 incorporate the latest changes to EPA primary  
10 drinking water regulations, the national standards  
11 for solid waste test methods and EPA test procedure  
12 for the analysis of pollutants.  
13 A significant result of the update to EPA test  
14 procedures for the analysis of pollutants is  
15 amendment to the procedure for the determination of  
16 the method detection limit, which will apply to all  
17 permittees and accredited laboratories.  
18 The Department is proposing to amend 301-9-5,  
19 QA/QC Program Required, to increase from three years  
20 to five years the time that records of analyte  
21 accredited analysis are retained. This change is  
22 for consistency with other DEQ laboratory  
23 accreditation records retention requirements.  
24 Additionally, the Department is proposing to  
25 amend 301-9-54, Inorganic Classic Chemistry,

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1 deleting the unneeded reference to inorganic  
2 chemistry as classic chemistry. And to delete the  
3 option to test spike duplicates once per month.  
4 The Department is proposing to add a new section  
5 to 301-9-57, Support Equipment, to require the  
6 laboratory support equipment be calibrated at least  
7 annually using traceable references when available  
8 and bracketing the range of use. This change is  
9 consistent with EPA required test procedures.  
10 The comment period for Chapter 301 was  
11 December 3rd through January 2nd, 2019. Oral  
12 comments may be made today at this council meeting  
13 and at the February 15th, EQB meeting here at the  
14 Department of the Environmental Quality.  
15 The DEQ received and responded to five written  
16 comments within the comment period and received  
17 three additional comments beyond the period. One  
18 comment resulted in the addition of one analyte  
19 temperature to the basic Environmental Laboratory  
20 categories.  
21 The comments have been provided to the council  
22 for consideration. And with this I give it back to  
23 the council, Mr. Chairman.  
24 MR. DUZAN: Okay. Questions from the  
25 council. Does anybody have any questions or

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1 comments on 301?  
2 MR. SHORT: I do. What was the basis of  
3 the calculation of the -- oh, the hours? Did you  
4 come up with fee -- the hours?  
5 MR. ARMSTRONG: The hours are based on the  
6 job family of the assessor that's actually  
7 performing the assessment for the evaluation.  
8 MR. SHORT: Base salaries and support  
9 administration, all those things?  
10 MR. ARMSTRONG: Yes.  
11 MR. SHORT: Okay. Do you -- will that  
12 change periodically or is that a fixed rate that can  
13 be guaranteed for some period of time?  
14 MR. ARMSTRONG: Well, that's a good  
15 question. I suspect it's a fixed rate that could be  
16 guaranteed for some period of time. But unless  
17 there's actually promotion of an assessor to another  
18 level of the job family.  
19 MR. SOWERS: Chris, I have a question for  
20 you. Did you all take into consideration maybe a  
21 not-to-exceed cost when coming up with this? Like  
22 just looking at an overall cost, where you would  
23 charge, and if it went over a certain level it  
24 wouldn't be exceeded?  
25 MR. ARMSTRONG: We've briefly discussed



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1 putting a cap to the charges. We based the guidance  
2 document, the charges that you see in that, on  
3 experience that we've had in the past. We truly  
4 don't know what those charges will be. But it's  
5 actually dependent on -- charges would be dependent  
6 upon the competency of the laboratory. The  
7 documentation that's provided up front from the  
8 laboratory.

9 Whether or not there's a lot of corrective  
10 action that has to go on. In conjunction with the  
11 on-site assessment. That would drive costs up.  
12 But, no, sir, we have not put a cap in place at this  
13 time.

14 If I saw something extraordinary I'd probably  
15 want to consider a cap.

16 MR. SHORT: Fees you said would be invoiced  
17 at the conclusion of the assessment?

18 MR. ARMSTRONG: Yes.

19 MR. SHORT: Is there -- is there any way  
20 that the person that's engaged in securing DEQ for  
21 evaluations, is there any way they would know what  
22 that's going to cost ahead of time?

23 MR. ARMSTRONG: No. We can give an  
24 estimate, but not ahead of time. There's a lot of  
25 variability with laboratories and what happens with

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1 on-site assessments with laboratories. There's a  
2 lot of difference in scope for what you're actually  
3 assessing.

4 And the programs that they actually provide  
5 testing for and the type of technologies that that  
6 laboratory actually utilizes. And then there's the  
7 expertise of the laboratory itself.

8 MR. RODRIGUEZ: In the process of  
9 developing your recommendation, did DEQ look at what  
10 other states, what the practice of other states,  
11 especially surrounding states for this activity?  
12 And if so, what did you learn and how are the fees  
13 that are being recommended, how do they compare with  
14 what your research developed?

15 MR. ARMSTRONG: Well, yes, we did. And  
16 back on July 31st of 2018 I provided the council a  
17 memorandum that gave a regional state on-site  
18 assessment fee comparison at that point in time.  
19 One of the things that revealed primarily is that  
20 we're the only state in the region that does not  
21 have a fee for on-site assessment.

22 The other thing that it revealed is there's a  
23 lot of variability in how each state utilizes  
24 whatever their fee is going to be.

25 We elected to go with an out of state that

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1 actually uses time and labor. Okay. And felt like  
2 that was the best approach at this time to take with  
3 this fee in particular.

4 MR. DUZAN: Was there -- I remember a  
5 couple meetings ago when we briefly talked about  
6 medical marijuana. Is there -- but we talked about,  
7 you know, because the one example is, you know,  
8 \$10,000 or ballpark. Has there been thoughts of  
9 doing that over a period of three months, four  
10 months, spreading that cost, or is it just one time?

11 MR. ARMSTRONG: We had not really  
12 considered that, Mr. Chairman. Probably end with  
13 chasing past dues, which is an additional  
14 administrative cost in doing that. I suppose it's  
15 something that we could consider.

16 MR. DUZAN: I just remember that being  
17 brought up with the medical marijuana, because the  
18 fees were going to be rather exorbitant for --

19 MS. CHARD: This is Shellie Chard, the  
20 water quality division director. On the fees for  
21 other chapters of rules, while it's not necessarily  
22 spelled out that someone can make installment  
23 payments, any time that an industry or a city has  
24 asked, can I pay, you know, half this month, half  
25 next month or next quarter, generally we've been

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1 able to work that out on a case by case basis  
2 through our finance department. We don't want to  
3 put it in the rules where we end up issuing invoice  
4 after invoice for all of the facilities. But we do  
5 have the ability to make those arrangements and have  
6 in the past.

7 MR. DUZAN: Any other questions from the  
8 council?

9 MR. SOWERS: One question I was going to  
10 ask, is there a way in the advance when the  
11 inspector or whoever goes out and looks at it, would  
12 there be a way that he could just do -- I guess pass  
13 through the facility and give an idea, an estimate  
14 at that time as what would take place? Has any  
15 thought been given to that?

16 MR. ARMSTRONG: There has been no thought  
17 given to that. What might happen would be to  
18 actually apply from an on-site assessment, you make  
19 an application. Then at the time you make that  
20 application you have to produce a lot of  
21 documentation with the application, which would give  
22 an indication of the scope of the application. The  
23 number of SOPs, the number of methods that are being  
24 requested, the types of programs that are being  
25 requested. I mean, when I'm talking programs, I'm

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1 talking the difference between Clean Water Act,  
2 NPDES monitoring versus drinking water versus  
3 hazardous waste, something like that.  
4 So, there is the potential to look at the scope  
5 and actually make some type of estimate at that  
6 point in time.  
7 I'm looking at my lab accreditation officer,  
8 Caldwell, seeing if he's going, yeah.  
9 MR. DUZAN: Well, and after -- after we're  
10 into this for a year or so, the audit starts -- they  
11 would probably have a much better guesstimation of  
12 what it will cost, because he already knows the  
13 facilities that -- because he's been to probably all  
14 of them numerous times in the past. So he can  
15 probably have a ballpark of where it will start.  
16 MR. ARMSTRONG: I'd agree.  
17 MR. MATHESON: But, again, this is all  
18 going to be how prepared that lab is for that  
19 assessment, as far as having their ducks in a row to  
20 cut down the time needed to do this estimate.  
21 MR. ARMSTRONG: True.  
22 MR. DUZAN: Any other questions from the  
23 council?  
24 MR. SHORT: So if I understand this  
25 correctly, your on-site evaluation reimbursable

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1 expense, are you going to break that down or are you  
2 just going to charge a daily rate?  
3 MR. ARMSTRONG: Within your package you'll  
4 find a guidance document.  
5 MR. SHORT: Right.  
6 MR. ARMSTRONG: Okay. And within that  
7 you'll see the different activities that would  
8 actually be tracked by time and labor. This would  
9 be done through -- each employee has to fill out a  
10 time and labor document. It would have to occur  
11 after -- after the on-site assessment, but while --  
12 every time they worked on a particular laboratory,  
13 they would code time either to a project code or a  
14 subprogram that's actually loaded into their time  
15 and labor document. Does that make sense?  
16 MR. SHORT: Yeah, it does. When I've been  
17 involved with accreditation activities it was,  
18 you'll pay travel plus X amount per day. We  
19 anticipate it's going to be a three-day job.  
20 MR. ARMSTRONG: Yes.  
21 MR. SHORT: As in, you know about what it's  
22 going to cost to get somebody from Tulsa to your  
23 facility and what hotel rates are going to cost.  
24 It's much easier to calculate, much easier to deal  
25 with in that structure.

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1 MR. ARMSTRONG: That -- that's an absolute  
2 rate. Yeah. True. That's true.  
3 MR. SHORT: So there's some risk in that  
4 both for you and the client?  
5 MR. ARMSTRONG: That's true, also. This --  
6 I'm an analytical guy. I kind of look at things as  
7 accurately as possible.  
8 MR. SHORT: Again, when I've been involved  
9 in accreditation efforts in the past, you usually  
10 think, okay, I might have a team of three people  
11 that are going to be here three days. I know what  
12 that's going to cost.  
13 MR. ARMSTRONG: And -- and those daily  
14 costs are padded pretty highly, too, at the same  
15 time.  
16 MR. SHORT: Typically.  
17 MR. ARMSTRONG: Yeah.  
18 MR. SHORT: Yes. But they have to include  
19 the things that I was asking you about earlier,  
20 administration, support, all of those other things  
21 that we're going to do, the effect.  
22 MR. ARMSTRONG: Was that a question?  
23 MS. CHARD: This is Shellie Chard, again.  
24 And I'm just -- one thing that I think Chris said  
25 originally, but may not have been in enough detail

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1 that the importance of it kind of shown through.  
2 And that is, we are required to complete time sheets  
3 down to 15 minute intervals. And they have to be  
4 assigned to whatever the project or the task is.  
5 This is a state wide system that all of us get  
6 to use. I think education got exempted out, but all  
7 of the other state agencies. And so we -- it's hard  
8 for us to say an absolute daily rate, because if  
9 it's Chris and the lab accreditation officer and a  
10 Level II chemist, that rate is different than if  
11 it's the accreditation officer, a Level III chemist  
12 and a Level I chemist.  
13 So I think we were trying to match up the  
14 billing process with how we are required to report  
15 our time into the state system and how that gets  
16 reported to the governor or the legislature and  
17 federal agency, whether it's federal funding or  
18 contracting agencies where that's involved.  
19 So I think that was, you know, some of the logic  
20 behind doing it that way, because it does match up  
21 with several other processes.  
22 MR. ARMSTRONG: Thank you, Shellie.  
23 MR. WINEGARDNER: I was looking at the  
24 example report. You think this is a reasonable  
25 estimate?

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1 MR. ARMSTRONG: With the examples  
2 themselves?  
3 MR. WINEGARDNER: Right. Just with what  
4 you've got there.  
5 MR. ARMSTRONG: We based these examples off  
6 of time that we know has been spent with labs  
7 historically, made an attempt to.  
8 Is that correct, David?  
9 MR. CALDWELL: Yes.  
10 MR. ARMSTRONG: And so I'd say they're  
11 fairly accurate.  
12 MR. WINEGARDNER: Thank you.  
13 MR. DUZAN: Do you have any more comments  
14 from the council at this time? If not, we'll open  
15 it up to --  
16 MR. SHORT: Just one. You know, thinking  
17 about this, if I was a person of the regular  
18 community I certainly would want to know an estimate  
19 and a not to exceed.  
20 MR. ARMSTRONG: Is that as a regulated  
21 community or as a public community? Either one?  
22 MR. SHORT: As someone that the assessor is  
23 going to visit.  
24 MR. ARMSTRONG: Okay.  
25 MR. SHORT: If I hired any other service.

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1 MR. ARMSTRONG: I think we can do that.  
2 MR. SOWERS: And I agree with that. What  
3 we do is -- because we require our contractors to do  
4 the same thing. I'm going to do the hardest thing  
5 in getting a not-to-exceed cost. I exactly what I'm  
6 getting into, as well. So, I concur.  
7 MR. ARMSTRONG: We agree.  
8 MR. DUZAN: Do we have any comments from  
9 the public? Go ahead and come up to the podium. If  
10 you can go ahead and state your name and your  
11 company for the --  
12 MR. NEWPORT: Yes, I'm Mitchell Newport,  
13 here on behalf of ERT Laboratory. And our owner,  
14 laboratory manager could not be here. His name is  
15 Tim Hensley.  
16 I noticed on the table when I came in there is a  
17 copy of a one-page letter on the ERT letterhead that  
18 was submitted last night. Because of timing, do I  
19 need to read this or -- to be considered? I've also  
20 brought copies on -- more originals that I'd be glad  
21 to give to the board members if you --  
22 MR. DUZAN: I think we all got -- they made  
23 copies for all of us ahead of time. But if you want  
24 to hit the high points of it --  
25 MR. NEWPORT: Well, it's just a couple of

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1 paragraphs. If I need to read it, that's fine.  
2 MR. DUZAN: That's fine.  
3 MR. NEWPORT: I just want to make sure  
4 it's -- since it didn't come in by the 2nd or  
5 whatever, I just want to make sure it's considered.  
6 So whatever you prefer, sir.  
7 MR. DUZAN: Shellie.  
8 MS. CHARD: You don't have to read  
9 verbatim. We do have the comment letter. It will  
10 be considered. And it can be discussed if there are  
11 items that need to be discussed here. We have the  
12 opportunity before the board meeting, which is  
13 February 15th, we can still make changes if they're  
14 appropriate and are related, you know, to what has  
15 been public noticed and all of that.  
16 So you do not have to read that into the record.  
17 It is being placed in the record already.  
18 MR. NEWPORT: So it is fully considered?  
19 MS. CHARD: So it is on the record. Since  
20 you are here you are welcome to read it if you  
21 choose or to simply say, here are my concerns and I  
22 would like to see it addressed in this manner or  
23 whatever you would like to say.  
24 MR. NEWPORT: Well, I may just -- since you  
25 have all the information I won't bore you with

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1 reading the entire thing. Just to -- and, again,  
2 Tim Hensley, the owner of the lab -- director of our  
3 lab, he apologizes for not being here. He really  
4 tried. He had prior commitments.  
5 Just to basically summarize it all real briefly.  
6 His brief lookback. Our laboratory had paid  
7 accreditation fees around \$11,500 since the last  
8 inspector came to our laboratory. You know,  
9 original comment being, that seems like quite a lot  
10 of money to be able to pay to compensate for an  
11 inspection. I won't go in to the detail there. And  
12 this is the first I've looked at this explanation  
13 sheet.  
14 The second two paragraphs basically assume that  
15 regardless of any other type of expense, if there  
16 are other expenses that, you know, the state of the  
17 laboratory is, you know, whether they be TNI related  
18 expenses or marijuana related expenses, you know,  
19 just in fairness that you don't have these group of  
20 fees paying for someone else's responsibilities.  
21 And finally the last sentence is just, you know,  
22 as kindly as we can say, honestly it feels a little  
23 bit uncomfortable to have to solicit comments where  
24 you may disagree with a proposal to the entity  
25 that's about to inspect you. And, so, I mean, you

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1 know, there's a procedure -- I mean, the last  
2 sentence basically just says, maybe other  
3 laboratories may like to say, you know what, I think  
4 our fees are already high enough or maybe we don't  
5 want to do this. But, you know, there's maybe some  
6 hesitancy to -- I mean, there may be some hesitancy  
7 for some people to speak up and say what's truly on  
8 our minds if they feel like it may adversely affect,  
9 you know, the inspections later.

10 That's a summary here. You have it all in  
11 writing here. And thank you very much for your  
12 time. I appreciate your consideration.

13 MR. DUZAN: Thank you.

14 MS. CHARD: Mr. Chairman, if you would  
15 allow me to address one piece of that.

16 MR. DUZAN: Sure.

17 MS. CHARD: For DEQ as a regulatory agency  
18 as well as many other responsibilities, you know, we  
19 do rulemaking as you all know on the council very  
20 frequently. The Environmental Quality Board  
21 considers rules from all of the divisions in the  
22 agency. We have public comment periods on permits  
23 and that sort of thing all the time.

24 So, we expect -- any time we do rulemaking, that  
25 we're going to have agreers and disagreeers. So, I'm

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1 hopeful that there's not a sentiment out there that  
2 there's some retribution for comments. But we  
3 consider it kind of just part of the every day. And  
4 we're generally pretty surprised if we don't have  
5 comments.

6 Sometimes we are able to address comments in an  
7 informal setting. Sometimes it's during the formal  
8 comment period before it comes to you, we're able to  
9 address those things so you don't necessarily see  
10 all of them. But I don't think it's unusual for us  
11 to get a lot of comments.

12 So I just want to make sure that everyone  
13 understands, that's not an unusual situation for us.  
14 And it's really not an uncomfortable situation.  
15 It's the world we live in. So I just wanted to  
16 clarify.

17 MR. DUZAN: Okay. Any other questions or  
18 comments from the public? Go ahead and come up to  
19 the podium.

20 MS. YU: My name is Ming Yu, last name Yu,  
21 Y-U. I am the owner of Red River Laboratory. And  
22 probably you have already received the -- I sent my  
23 comments in to David and Chris. And it's here, I  
24 saw the company response. I saw today, so I didn't  
25 even have enough time to read through.

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1 But here I just want to summarize my comments.  
2 And first, I think my comment is on Chapter 301.  
3 This is a state program. And this state program has  
4 already run so many years. And all sudden kind of  
5 the assessment for our laboratory and the estimate  
6 probably about \$10,000.

7 And so I think the cost is kind of all sudden a  
8 jump. And the -- my comment is, this is a state  
9 program. It's funded by the -- by the tax dollars.  
10 And we -- each year we pay about \$3,000. And that  
11 should be enough to cover for the evaluation. And  
12 for state program I want the state keep the same --  
13 same thing and no increase the assessment charge at  
14 all.

15 And if for the state, yeah, want to reimburse  
16 the cost for the TNI program. And if laboratories  
17 interested in or if it's a cost -- the cost can be  
18 justified by our laboratory we -- we may be  
19 interesting to do that.

20 But I want the state give us the choice, either  
21 if it's too expensive, then we may choose state  
22 still -- stay with the state program. And -- or the  
23 state should give us the option. If the Oklahoma  
24 charge is more expensive, is not competitive, more  
25 expensive than other state, then we can choose other

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1 state. And that's -- that's one thing.  
2 And other thing is definitely as a small  
3 business we want a quote or estimate before the  
4 assessors come to our door. Because we never want  
5 some huge bill after the thing is done, after the  
6 assessment is done. That can cause a small business  
7 trouble, big trouble.

8 So that's definitely eve -- yeah, no matter it's  
9 reasonable or not, give us an estimate or quote and  
10 we have to agree then. Let us, you know, after we  
11 review the quote let us make decision if we want to  
12 do this or not.

13 And -- oh, I think I forgot to -- another  
14 comment. And it is the 301-5-4G. And the DEQ may  
15 conduct on-site evaluation of the laboratory or  
16 insure a compliance with this chapter approximately  
17 by -- or upon receipt of complaint.

18 I think that or upon receipt of complaint is  
19 kind of open ended. And if we happen to have a  
20 happy customer or someone they call you and you come  
21 to inspect us, we don't mind you come to inspect us.  
22 But I think that cost is out of our control. And  
23 even we don't do any anything wrong, someone can  
24 call. If your inspection found something wrong or a  
25 violation, then that's kind of following enforcement

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1 rules instead of charge the assessment fee.  
2 I think I want to add the comment, yeah. Yeah  
3 that's it. Yeah.  
4 MR. DUZAN: Okay. Thank you. Shellie, do  
5 you want to respond?  
6 MS. CHARD: A couple of pieces of that I  
7 will respond and the rest I will have to defer to  
8 the laboratory.  
9 As far as funding and state programs and state  
10 dollars, for those of you who have been on the  
11 council a long time you've heard a lot of  
12 discussions about budgets and federal funding versus  
13 state funding versus fee funding. And we are back  
14 above 1993 state general revenue dollars. But we're  
15 still down a considerable amount of general revenue  
16 dollars. And that comes from state budget cuts and  
17 other appropriations, priorities and those types of  
18 activities. And those are outside our control.  
19 That's a legislature driven process.  
20 We do try the best we can to use those general  
21 revenue dollars in programs, either that do not  
22 receive federal or fee funding or to supplement some  
23 of those programs. For DEQ the only divisions that  
24 receive any state appropriated dollars are the Water  
25 Quality Division, the Environmental Complaints and

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1 Local Services Division and the State Environmental  
2 Laboratory Services Division.  
3 That general revenue goes to primarily the  
4 Drinking Water Program, the Laboratory Analysis  
5 Associated, the Waste Water Program. Primarily  
6 cities, water districts and dischargers. And then  
7 we use a large percentage of that money in the  
8 Environmental Complaints local services. This is  
9 where we fund our emergency response tornadoes, ice  
10 storms, wild fires, sometimes we have them all at  
11 once, drought followed by flooding. We also -- you  
12 know, we have a statute that requires us to respond  
13 to every environmental complaint that is filed.  
14 So that, again, takes a lot of resources. So  
15 that's where that funding goes. And whatever amount  
16 of funding that is, it is what it is. You know,  
17 that's not our decision. So we end up having to  
18 use, you know, whatever fee money we have where  
19 there is not federal money for the program.  
20 The complaints, we do have to respond to all of  
21 them. In some cases we end up with a letter back to  
22 the complaining party saying, we looked, we don't  
23 see anything. And that's the end of it. Sometimes  
24 we find all kinds of things. Sometimes those  
25 complaints aren't closed until there's an order in

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1 place.  
2 So that's something we don't have an option of  
3 not investigating those complaints. So it's just --  
4 I know it's a hard deal for everybody. And general  
5 revenue is whatever amount it is. And we do the  
6 best we can with that.  
7 MR. ARMSTRONG: And I would just like to  
8 add to Ming's concern about an additional assessment  
9 based on a complaint. One, it depends on the nature  
10 of the complaint. It depends on who files the  
11 complaint. It depends upon the evidence that was  
12 presented with that complaint, as to whether we  
13 would return on site to that laboratory or not.  
14 It would be discussed prior most probably, but  
15 we truly don't have an option other than to respond  
16 to some complaints, depending upon the -- what that  
17 complaint truly is.  
18 If I've got a laboratory that's been producing  
19 bad data, noncompliance data for a period of time,  
20 then we're most likely going to be back on site.  
21 MR. DUZAN: Questions, comments from the  
22 council on those?  
23 MR. SHORT: Both of our presenters  
24 mentioned the same thing that was mentioned by the  
25 council. That's the open ended nature of the way

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1 the rules appear to be. So, is there a way, before  
2 this gets presented to the Environmental Quality  
3 Board that we can assure small business owners that  
4 they at least have some estimate of what the  
5 evaluation is going to cost, with some not-to-exceed  
6 fee?  
7 MR. ARMSTRONG: We've talked about just now  
8 attempting to provide an estimate based on the scope  
9 and the nature of the request of the assessment.  
10 And we would make every attempt to do that. Will it  
11 be dead on, no. But if we're going to make an  
12 estimate, we will attempt to make an estimate high  
13 enough that -- that we would not exceed that  
14 threshold.  
15 MS. CHARD: Jeff, are you asking for some  
16 specific language in the rule or what would you like  
17 to see to address that issue?  
18 MR. SHORT: I don't know that you need a  
19 specific language for -- like an administrative  
20 policy. Because I think, you know, this is kind of  
21 more what we're looking at. But, you know, I think  
22 to get past some of these issues I know any time  
23 that I would hire somebody on a fee for service, and  
24 particularly like an engineering firm or evaluation  
25 laboratory, I want to be assured that -- that I'm

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1 getting good people that are doing an efficient job  
2 that are going to come in within a reasonable amount  
3 of money.  
4 And that they're not going to give me four  
5 rookies that are in training that are going to take  
6 four times as long to get the job done.  
7 MS. CHARD: Sure.  
8 MR. SHORT: And I'm going to be stuck with  
9 the bill. I think that's the -- I mean, if I was a  
10 small business owner, that's what I would be  
11 concerned with.  
12 MR. ARMSTRONG: I can assure that if you  
13 got four rookies in training you would not receive  
14 an invoice for that. You would probably get a  
15 pretty good assessment that you would not receive an  
16 invoice for that.  
17 And as far as additional language that you're  
18 requesting, would you be okay if we actually put  
19 that language in the guidance document itself?  
20 MR. SHORT: That's where I think it's more  
21 appropriate, in the guidance document. But  
22 something that we -- you know, when it goes before  
23 the Environmental Quality Board, that you can say,  
24 well, this came up in the council and we're going to  
25 address this with the guidance document and we're

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1 going to assure these small business owners that  
2 we're going to make every effort with our estimate.  
3 And we're certainly going to give them a  
4 not-to-exceed amount.  
5 MR. ARMSTRONG: Very good. Thank you.  
6 MR. SHORT: Reasonable. I mean, once you  
7 get there and you find out that they look nothing  
8 like what they are on paper, that's -- that's  
9 different.  
10 MR. ARMSTRONG: And that happens.  
11 MR. SHORT: Yes.  
12 MR. RODRIGUEZ: I just want to ask about  
13 the charges in response to a complaint that I  
14 listened to.  
15 You know, there's -- seems to be a vulnerability  
16 here that a company would be charged to prove  
17 something that, you know, turns out to be nothing.  
18 But there -- they've got to pay. And maybe I didn't  
19 hear the response adequately. But that concerns me  
20 that there's a vulnerability there that complaints  
21 could create extra expense. And I just want to make  
22 sure that that's addressed appropriately.  
23 MR. ARMSTRONG: What -- what I thought I  
24 spoke to would be there would be an investigation.  
25 Okay. Depending upon what the investigation

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1 revealed would determine whether or not there would  
2 even be an on-site assessment and whether there  
3 would be a fee for that on-site assessment. Part of  
4 when you're going back in is to do your  
5 investigation.  
6 MR. RODRIGUEZ: So the burden of proof then  
7 is on the complainer?  
8 MR. ARMSTRONG: The burden of proof is on  
9 the complainer. But the laboratory has to have the  
10 proper documentation to defend the nature of the  
11 complaint at the same time.  
12 MR. RODRIGUEZ: And the meter doesn't start  
13 running unless you determine that there is validity  
14 in the complaint?  
15 MR. ARMSTRONG: Yes. And there is no  
16 procedure for this. Historically we have never  
17 charged for a complaint investigation. But we have  
18 investigated some complaints that there should have  
19 been charges associated.  
20 MR. RODRIGUEZ: Thank you.  
21 MR. ARMSTRONG: Yeah.  
22 MR. NELSON: Chris, is there a -- or what  
23 would be the process for a regulated lab to contest  
24 the cost?  
25 MR. ARMSTRONG: They could file a complaint

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1 back through the Laboratory Accreditation Program.  
2 MR. NELSON: So there's a procedure that  
3 you would review?  
4 MR. ARMSTRONG: We have a complaint  
5 procedure in place for that.  
6 MR. DUZAN: Okay. I think we have another  
7 comment from the public.  
8 MR. CHANCE: I'm Danny Chance, Accurate  
9 Environmental. I was looking at the examples and  
10 the fees that are listed here. I'd hate for this to  
11 be passed with -- with -- I mean, everybody thinking  
12 that these would be probably reasonable. Or, I say  
13 reasonable or representative is probably a better  
14 term.  
15 Looking at this, talking about inorganic,  
16 organic radiochemistry, microbiology and wet  
17 testing, you know, two days, two assessors. I don't  
18 think -- I mean, to be quite honest from audits that  
19 we've had previously, I don't think that two days,  
20 two assessors would -- would cover that. So the  
21 estimate of \$9,000 for -- just looking at our lab,  
22 I'm assuming would be three -- three times that.  
23 And I think \$27,000 is probably what I would assume  
24 excessive.  
25 I think there's probably a couple of the labs

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1 that would fall in that same category of two  
2 auditors, two days is pretty quick. If that's what  
3 you're proposing, I would be more than happy to do  
4 that. But I really don't think two days, two  
5 assessors is reasonable.  
6 MR. ARMSTRONG: How many labs are you  
7 talking about?  
8 MR. CHANCE: I would probably think of  
9 three.  
10 MR. ARMSTRONG: Okay. And are there  
11 complex technologies and scopes within those  
12 laboratories?  
13 MR. CHANCE: Sure. Organic and  
14 inorganic --  
15 MR. ARMSTRONG: Okay.  
16 MR. CHANCE: -- which is -- given in the  
17 example, I just don't think the example is  
18 representative. And so I'd hate for this to be used  
19 as kind of the top end of an example of what it  
20 would cost. I don't think that that's -- I don't  
21 think that's reasonable. I think you would probably  
22 agree, would you not?  
23 MR. ARMSTRONG: I understand what you're  
24 saying. I do agree.  
25 MR. CHANCE: Okay.

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1 MR. ARMSTRONG: But it almost sounds like  
2 you're arguing that the top end should be higher at  
3 the same time.  
4 MR. CHANCE: Well, I would love for it to  
5 be \$9,000. I just don't think -- I think you're  
6 using that as an example of, well, it's anywhere  
7 from 2,300 to 9,000. And I don't think that's --  
8 that's not going to be the case. I mean, if that's  
9 what we're looking at, 9, 10, 11,000, I would be  
10 more than happy to pay that. That's fine. That's  
11 typically what we do pay.  
12 But under these charges here, I think ours would  
13 be considerably higher. Same with a couple other  
14 people.  
15 MR. DUZAN: How many -- at your last TNI  
16 audit that you had, how many inspectors and how many  
17 days?  
18 MR. CHANCE: That's a very good question.  
19 I think it was six or seven auditors over -- okay.  
20 Go ahead. You tell me how many. I'll let -- go  
21 ahead.  
22 MR. CALDWELL: We had five assessors, plus  
23 a contractor --  
24 MR. CHANCE: That's correct.  
25 MR. CALDWELL: -- there two days. Two

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1 days.  
2 MR. CHANCE: I don't -- I don't think it  
3 was two days. And --  
4 MR. CALDWELL: It was two days. The  
5 contractor flew in and she was there the next day --  
6 MR. CHANCE: So, five assessors and a --  
7 okay, let's take that.  
8 MR. CALDWELL: Six.  
9 MR. CHANCE: Let's take that, six over two  
10 days. So if we have two assessors over two days  
11 my -- my estimate of what I just said of \$27,000 is  
12 actually dead on. Is that not correct? That seems  
13 excessive.  
14 MR. ARMSTRONG: Were you invoiced for this  
15 assessment?  
16 MR. CHANCE: Not yet, because we're talking  
17 about passing it now. I mean, if the assessments  
18 are going to change, I can see that. I just --  
19 again, not to be argumentative, but I just didn't  
20 want this to be passed thinking that this is  
21 anywhere between 2,300 and 9,000 is what we're  
22 looking at.  
23 MR. ARMSTRONG: I don't think your past  
24 assessment is a representative example of what you  
25 would see in the future.

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1 MR. CHANCE: Okay.  
2 MR. ARMSTRONG: Okay. One, you're not  
3 going to have an additional contractor on site or  
4 the logistics of dealing with that.  
5 MR. CHANCE: Sure.  
6 MR. ARMSTRONG: Two, I mean, we've had to  
7 add new assessors.  
8 MR. CHANCE: Uh-huh.  
9 MR. ARMSTRONG: And you will see some  
10 additional efficiency within those assessors  
11 themselves over time. That's why I made the comment  
12 that I did previously that if you had new assessors  
13 on site, would you receive a fee for that  
14 assessment, no.  
15 MR. CHANCE: Okay. All right. That's what  
16 we wanted to say. Thank you.  
17 MR. ARMSTRONG: Thank you.  
18 MR. DUZAN: Questions from the council  
19 about his comments? I think we have another one.  
20 MR. HAAS: Good afternoon. I'm Scott Haas  
21 with Environmental Testing. Just a couple quick  
22 comments. I won't -- be brief.  
23 I appreciate the council's insight and thought  
24 in this process regarding the fees. I think the big  
25 question here is, is this, you know, how open ended

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1 is it. And I appreciate you guys taking a look at  
2 that.  
3 We've been an accredited laboratory for a number  
4 of years. And our accreditation has come from  
5 Louisiana. And with that process maybe just for  
6 perspective, the last time I had to have it done,  
7 you know, I was contacted by Louisiana. And  
8 Louisiana doesn't conduct their audits themselves,  
9 they use third-party accreditors -- I'm sorry,  
10 accreditation bodies to do that.  
11 And we were tasked with getting three bids from  
12 three different contractors. Looked at those bids.  
13 Chose the one that we liked. And then submitted  
14 that back to Louisiana for approval, which they  
15 approved. And so that's how that cost control  
16 happened.  
17 We're happy to work with Oklahoma and have  
18 Oklahoma come in and their auditors come in. Much  
19 like Mr. Chance mentioned, our last audit we had  
20 numerous auditors over many days. They were there  
21 almost a week, David. But part of that process was  
22 explained to me that they were bringing their  
23 auditors in that they were training. And that they  
24 needed to have reviewed. And so that was an  
25 opportunity for them to get some experience. And so

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1 we're looking forward to those efficiencies as we  
2 move forward.  
3 And, you know, this is a new program that's  
4 beginning. So we appreciate that and respect that.  
5 You know, I think, again, the concern has been  
6 pointed out by Mr. Short, you know. I've worked on  
7 the consulting side of things and had to build  
8 projects. And I worked with project managers that  
9 were good at managing projects. And they could deal  
10 well with their subordinates and make sure they were  
11 responsible for their time.  
12 And then, you know, there are project managers  
13 that they've got that special project every hour, I  
14 want to hit the golf course goes to, you know. And  
15 how do we see that being controlled? And that's  
16 just not being shown here. And so I think that's  
17 going to be, you know, how that relationship works  
18 with the public and with the private companies that  
19 are being -- you know, have this oversight happening  
20 will be dependent on how well the program is  
21 managed.  
22 And, you know, we would appreciate anything that  
23 can go into the guidance document that helps make  
24 everybody feel more comfortable about those things.  
25 I think it will make the program go better.

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1 Thank you guys for your time.  
2 MR. DUZAN: Thank you.  
3 MR. ARMSTRONG: And, Scott, if you have  
4 suggestions for the guidance document, we'd like to  
5 have those suggestions, also.  
6 MR. HAAS: Okay.  
7 MR. ARMSTRONG: But you don't have to make  
8 those now.  
9 MR. HAAS: Thanks, Chris.  
10 MR. DUZAN: Okay. We have another  
11 commenter.  
12 MR. CRAWFORD: Kenneth Crawford with  
13 Accurate Labs. Kind of going back to what Danny was  
14 referring to. Our history that we've dealt with for  
15 years and years for TNI audits, we run around  
16 \$10,000 an event. Okay.  
17 But, the example given here is a two-day  
18 assessment with two auditors. Usually it's going to  
19 go three days. And I -- you know, two to whatever,  
20 how many I don't know, that's decided on your guys'  
21 plan of attack. But there's no way we can stay  
22 under \$9,000 just using the information given here.  
23 And I think if we cross that barrier of 10 grand  
24 or whatever it is, it's -- to me it's not being  
25 competitive anymore. And it's actually kind of

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1 closed in nature because we don't have an option to  
2 go to anybody else to perform the audit. There's no  
3 competition at that point.  
4 And, you know, we're not the pharmaceutical  
5 industry with big profit margins, so we've got to  
6 watch that careful. And so, that's a big expense to  
7 shell out every couple years. Seems like it's every  
8 year, but I know it's not.  
9 But -- so I'm concerned about the top end. You  
10 know, if it goes over 10 grand, then all of a  
11 sudden, you know, it's not competitive to what other  
12 programs are doing in the region. And I just don't  
13 want to exceed that.  
14 And I'm just also curious what it would be for a  
15 three-person team for three days or something like  
16 that, which is maybe more realistic for our  
17 facility.  
18 That's my comments. I do thank you for your  
19 time.  
20 MR. DUZAN: Thanks, Ken. Any questions  
21 from the council about the recent comments? Do we  
22 have any other members of the public want to make  
23 questions, comments? Okay. Any other comments from  
24 the DEQ?  
25 I guess the next thing on the agenda was, I



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1 guess, a vote.

2 MR. SHORT: Why don't we move for the  
3 acceptance of the rules with the stipulation the  
4 staff will prepare a guidance document prior to the  
5 Environmental Quality Board meeting, that is  
6 recognizing some of the -- recognizing the  
7 discussion we've had here today?

8 MR. SOWERS: We're talking specifically the  
9 limitation of the pre-fee or the pre --

10 MR. SHORT: Yes, the guidance document that  
11 the staff would prepare an estimate and a not to  
12 exceed for each particular job that they're going to  
13 undertake.

14 MR. HAAS: If I may. The guidance document  
15 probably should also include some language about  
16 this -- the unannounced assessments, the -- you  
17 know, because the way the language is written the  
18 DEQ could decide every week they wanted to come and  
19 assess your laboratory, regardless of having a  
20 complaint or not. It says they can be unannounced.  
21 They don't have to have a reason necessarily that  
22 it's been brought by somebody else in command. I'm  
23 not saying that they would do that, but it would be  
24 nice to have something in the guidance document that  
25 talked about -- and, again, that's a hard thing to

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1 define. I get that. That's part of the concern  
2 that you're seeing.

3 MS. CHARD: Mr. Chairman --

4 MR. DUZAN: Yes.

5 MS. CHARD: -- if I could convince  
6 Mr. Short to withdraw his motion temporarily and us  
7 take about a five-minute break. I have asked one of  
8 our lawyers to go ask the general counsel a  
9 question. So if we could take maybe a five-minute  
10 break, and then come back. And depending on the  
11 answer I get to my questions, then reconvene. And  
12 either make your motion with all of the clarifying  
13 language we need or perhaps I have another option  
14 for you.

15 MR. SHORT: That's fine.

16 MR. DUZAN: Okay. Do we have to take a  
17 vote for a five-minute break or do we just --

18 MS. CHARD: Just announce it.

19 MR. DUZAN: Okay. We're going to take a  
20 five-minute break.

21 (RECESS)

22 MR. DUZAN: Okay. Shellie.

23 MS. CHARD: Okay. So I'm not sure which  
24 one of the lawyers or if Chris is going to make a  
25 proposal to the council prior to any motion that you

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1 all may make.

2 MR. ARMSTRONG: I'm going to make a  
3 proposal. To the council I'd like to propose that  
4 we make a language change at 252:301-1-9 Fees, (e).  
5 And that change would be, after cost, we would  
6 include not to exceed \$10,000 per individual  
7 laboratory.

8 So it would read, "An on-site evaluation fee  
9 shall be calculated at actual cost, not to exceed  
10 \$10,000 per individual laboratory and, dot, dot,  
11 dot."

12 MR. DUZAN: Okay. Any questions from the  
13 council? Any additional questions from the public  
14 on that? Questions from the council, again?

15 MR. SOWERS: So would this supersede the  
16 guidance document that we were talking about  
17 previously, Chris?

18 MR. ARMSTRONG: Yes. That would rule.

19 MR. SOWERS: Okay. The only other question  
20 I had with -- referred to Scott's question and  
21 whether there would be a question, you know, as far  
22 as kind of some documentation or guidance documents  
23 for what else we talked about, like notifications  
24 coming to the laboratory and things like that. But  
25 Scott Haas had mentioned that. Was there any

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1 discussion like that for a guidance document?

2 MR. ARMSTRONG: As for Mr. Haas' question,  
3 I believe we've responded to the major question  
4 here. The question for unannounced access to a  
5 laboratory has always been within rule, under  
6 inspections at 301-5-4 A it reads, "Inspections may  
7 be unannounced."

8 MR. HAAS: Chris, that is absolutely  
9 correct. The comment was more related to costs  
10 associated with that. So, there's no restriction.  
11 You can decide to come in, you know, however often  
12 you wanted to, everyday. And then if I get a  
13 \$10,000 possibility every day you come in. And I  
14 know that's not the intent. And I think that's  
15 just -- that was the question for qualification.

16 Because we want the state to be able to go  
17 goodwill with the laboratories and things to show  
18 that intent, that it's not a malicious intent, it's  
19 an intent to keep the playing field level, keep  
20 everybody doing the right thing. And we appreciate  
21 that.

22 MR. ARMSTRONG: Okay.

23 MR. HAAS: I don't know how you write that  
24 in the guidance documents. That's the concern.

25 MR. ARMSTRONG: I'm still not certain I

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1 understand what it is you actually want, Scott. Is  
2 this more about -- about what fee would be  
3 associated with an unannounced inspection?  
4 MR. HAAS: Yes, sir, I think. It's not  
5 necessarily a want, it's just a -- it's the same  
6 concern that's been expressed over the open  
7 endedness of the original language. There's an open  
8 endedness there that's associated with --  
9 The DEQ should certainly have unrestricted  
10 access to come in and audit and evaluate any kind of  
11 complaint or concern with the laboratory. But it  
12 becomes a -- you know, if for whatever reason a  
13 particular laboratory becomes the focus of an  
14 investigation, that how does that, you know, equate  
15 across the board to somebody else?  
16 You know, not only am I the subject of that  
17 investigation and that ongoing process to  
18 demonstrate that, you know, perhaps there wasn't any  
19 issue. And then I'm bearing the burden of that  
20 cost, potentially. And I know you indicated that  
21 that's not probably going to be the case. But  
22 there's no language there that helps explain that  
23 does that. Does that --  
24 MR. ARMSTRONG: Scott, I understand what  
25 you're after, but that -- that in particular is not

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1 currently in the rulemaking whatsoever.  
2 MR. HAAS: I understand.  
3 MR. ARMSTRONG: And that -- and that  
4 section is not even open within this rule at this  
5 point in time.  
6 MR. SHORT: Are we ready for a motion?  
7 MR. DUZAN: I think there's --  
8 MR. ARMSTRONG: Well, my only other comment  
9 would be that -- that if -- if we were going to the  
10 laboratory for a targeted accreditation, that would  
11 actually be announced. Does that make sense, Scott?  
12 MR. HAAS: Absolutely. Yeah, I really  
13 don't have an issue with it, Chris. I'm just  
14 looking at the clarification of that open endedness.  
15 I think that's where some of the concerns were  
16 coming up and was just trying to help.  
17 MR. DUZAN: So from what I gather, though,  
18 what you said is that if we wanted to do something  
19 to this part of the rules, that would have to be  
20 added to an item for another council, because is --  
21 that wasn't one of the amended deals on this  
22 rulemaking.  
23 MR. ARMSTRONG: It would have to be  
24 additional rulemaking.  
25 MR. DUZAN: Okay.

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1 MR. SOWERS: Chris, I think that answered  
2 my question.  
3 MR. DUZAN: Okay. Are we ready for a  
4 motion?  
5 MR. SHORT: I would move that we accept the  
6 changes presented before us today with the inclusion  
7 of the proposal that has been made.  
8 MR. MATHESON: I'll second that.  
9 MR. DUZAN: Let's have a vote.  
10 MS. FIELDS: Mr. Carr.  
11 MR. CARR: Yes.  
12 MS. FIELDS: Ms. Kendrick.  
13 MS. KINDRICK: Yes.  
14 MS. FIELDS: Mr. Matheson.  
15 MR. MATHESON: Yes.  
16 MS. FIELDS: Mr. Nelson.  
17 MR. NELSON: Yes.  
18 MS. FIELDS: Mr. Rodriguez.  
19 MR. RODRIGUEZ: Yes.  
20 MS. FIELDS: Mr. Short.  
21 MR. SHORT: Yes.  
22 MS. FIELDS: Mr. Sowers.  
23 MR. SOWERS: Yes.  
24 MS. FIELDS: Mr. Winegardner.  
25 MR. WINEGARDNER: Yes.

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1 MS. FIELDS: Mr. Duzan.  
2 MR. DUZAN: Yes.  
3 MS. FIELDS: Motion passed.  
4 MR. DUZAN: Okay. We're moving right along  
5 now to Item 7, which is Permanent Rulemaking,  
6 OAC 253:302, Field Laboratory Accreditation. Again,  
7 Chris Armstrong.  
8 MR. ARMSTRONG: I'm going to trust that  
9 most of the questions have been answered and we can  
10 probably fall into this, as well.  
11 Chapter 302, Field Laboratory Accreditation.  
12 The gist of these rules and the underlying reason  
13 for this rulemaking is to make the laboratory  
14 accreditation rules internally consistent to update  
15 accreditation requirements, to reflect current EPA  
16 standards for analysis and to make program fees more  
17 closely approximate program costs for accreditation.  
18 The Department is proposing to amend 302-1-4,  
19 Definitions, to correct typographical errors, and by  
20 inclusion of new definitions for the terms finding  
21 and critical finding. Additionally, the term  
22 interim accreditation is clarified.  
23 The Department is proposing to amend 302-1-5,  
24 Fees, adding a new fee to recover the cost for  
25 assessors in performing on-site evaluations. The

<p style="text-align: right;">Page 54</p> <p>1 gist of this rule is to more accurately reflect the 2 Department's full cost for performing laboratory 3 accreditation and reduce reliance of state 4 appropriated funds. 5 The Department is proposing that 302-3-4 and 6 thereafter throughout Chapter 302, to delete the 7 word inspection and substitute the term evaluation. 8 Additionally the language for conducting evaluation 9 is clarified. 10 The Department is proposing to amend 302-5-2, 11 Laboratory Technicians, to delete redundant language 12 and broaden the educational and training 13 requirements to the laboratory technician. 14 The Department is proposing to amend 302-5-6, 15 On-site Inspections, to clarify the circumstances 16 and frequency for conducting on-site evaluations. 17 The Department is proposing to amend 302-7-1, 18 Participation Required, by adding a requirement. 19 That proficiency tests must be provided by a 20 National Environmental Laboratory Accreditation 21 Program, proficiency test provided. 22 The Department is proposing to amend 302-9-25, 23 Methodology Incorporated, by reference to 24 incorporate the latest changes to EPA test 25 procedures for the analysis of pollutants. A</p>	<p style="text-align: right;">Page 56</p> <p>1 council on this matter? Any discussion from the 2 public on this matter? Okay. Do we have a motion? 3 MR. SHORT: I would move we accept the 4 rules as presented. 5 MR. NELSON: I'll second. 6 MR. DUZAN: Let's have a note. 7 MS. FIELDS: Mr. Carr. 8 MR. CARR: Yes. 9 MS. FIELDS: Ms. Kindrick. 10 MS. KINDRICK: Yes. 11 MS. FIELDS: Mr. Matheson. 12 MR. MATHESON: Yes. 13 MS. FIELDS: Mr. Nelson. 14 MR. NELSON: Yes. 15 MS. FIELDS: Mr. Rodriguez. 16 MR. RODRIGUEZ: Yes. 17 MS. FIELDS: Mr. Short. 18 MR. SHORT: Yes. 19 MS. FIELDS: Mr. Sowers. 20 MR. SOWERS: Yes. 21 MS. FIELDS: Mr. Winegardner. 22 MR. WINEGARDNER: Yes. 23 MS. FIELDS: Mr. Duzan. 24 MR. DUZAN: Yes. 25 MS. FIELDS: Motion passed.</p>
<p style="text-align: right;">Page 55</p> <p>1 significant result of the update to the EPA's Test 2 Procedures for the analysis pollutants is amendment 3 of the procedure for the Method Detection Limits, 4 which will apply to all permittees and accredited 5 laboratories. 6 The Department is proposing to amend 302-9-33, 7 Sample Storage for Pickup, to include annual 8 verification of all thermometers, using a recognized 9 national metrology institute such as National 10 Institute of Standard and Technology (NIST). This 11 change is consistent with EPA required test 12 procedure. 13 The comment period for Chapter 302 was 14 December 3rd through January 2nd, 2019. Oral 15 comments might be made today, January 8th at this 16 council meeting and at the February 15th EQB meeting 17 here at the DEQ. 18 The DEQ responded to two written comments within 19 the comment period. And one additional comment 20 beyond the period. No permanent language changes 21 have been recommended as a result of these comments. 22 The comments have been provided for the council's 23 consideration, and I believe to the public. 24 Back to you, Mr. Chairman. 25 MR. DUZAN: Okay. Discussion by the</p>	<p style="text-align: right;">Page 57</p> <p>1 MR. DUZAN: Okay. Moving on to Permanent 2 Rulemaking, OAC 252:307, TNI Laboratory 3 Accreditation. Again, Chris Armstrong. 4 MR. ARMSTRONG: Chapter 307, TNI Laboratory 5 Accreditation. The gist of these rules and the 6 underlying reason for this rulemaking is to make the 7 laboratory accreditation rules internally consistent 8 to update accreditation requirements to reflect 9 current EPA standards for analysis and to make 10 program fees more closely approximate program costs 11 for accreditation. 12 The Department is proposing to amend 307-1-3, 13 Definitions, to correct typographical errors and by 14 inclusion of the new definitions. The definition 15 for Basic Environmental Laboratory adds the analyte 16 Escherichia coli. New definitions are added for 17 critical nonconformity and nonconformity. That 18 would be, excuse me, critical finding and critical 19 nonconformity. 20 The Department is proposing to amend 21 252:307-1-4, Incorporation by Reference, to 22 incorporate the latest changes to EPA primary 23 drinking water regulations, national standards for 24 solid waste test methods and EPA test procedures for 25 the analysis of pollutants.</p>

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1 A significant result of the update to EPA test  
2 procedures for the analysis of pollutants is the  
3 amendment, too. The procedure of -- for the  
4 determination of Method Detection Limit, which will  
5 apply to all permittees in accredited laboratories.  
6 The Department is proposing to amend 307-1-5,  
7 Accreditation Classes and Fields of Accreditation,  
8 with the deletion of fields of accreditation in the  
9 heading.  
10 The Department is proposing to amend 307-1-7,  
11 Annual Fees, adding a new fee to recover the actual  
12 costs for assessors' time and effort in performing  
13 on-site assessments.  
14 The gist of this rule is to more adequately  
15 reflect the Department's full cost for performing  
16 laboratory accreditation and reduce reliance on  
17 State appropriated funds.  
18 307-9-8, failure to perform, clarity to the  
19 suspension policy for; proficiency testing failure.  
20 This language is added to meet TNI requirements.  
21 The comment period for Chapter 307 was  
22 December 3rd through January 2nd, 2019. Oral  
23 comments may be made today, January 8th at this  
24 council meeting and at the February 15th  
25 Environmental Quality Board Meeting here at the DEQ.

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1 The DEQ received and responded to four written  
2 comments within the comment period. No permanent  
3 language changes are recommended as a result of  
4 these comments. The comments have been provided for  
5 the council's consideration.  
6 And with that it's back to you, Mr. Chairman.  
7 MR. HAAS: Do we need to add that same  
8 thing that we added in the 301-1-9 E?  
9 MR. ARMSTRONG: Yes, we do.  
10 MR. HAAS: Except it's in a different  
11 location. 307-1-7 would be --  
12 MR. ARMSTRONG: Thank you, Scott.  
13 MR. HAAS: Actually David pointed it out to  
14 me.  
15 MR. ARMSTRONG: So at 252:307-1-4  
16 incorporation by reference, D. On-site assessment  
17 fee. Excuse me, it's B.  
18 MR. HAAS: 1-7 B.  
19 MR. ARMSTRONG: Strike all that. 307-1-7  
20 Annual Fees, (b), Calculation of Fees. After cost  
21 we would insert, "Not to exceed \$10,000 per  
22 individual laboratory." And where the new language  
23 there at (b) would read, "The on-site assessment fee  
24 shall be calculated at actual cost, not to exceed  
25 \$10,000 per individual laboratory and includes, dot,

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1 dot, dot."  
2 MR. DUZAN: Okay. Any discussion from the  
3 council? Any discussion from the public? Do we  
4 have a motion for a vote?  
5 MR. RODRIGUEZ: Move to accept.  
6 MR. MATHESON: I second.  
7 MR. DUZAN: Vote.  
8 MS. FIELDS: Mr. Carr.  
9 MR. CARR: Yes.  
10 MS. FIELDS: Ms. Kindrick.  
11 MS. KINDRICK: Yes.  
12 MS. FIELDS: Mr. Matheson.  
13 MR. MATHESON: Yes.  
14 MS. FIELDS: Mr. Nelson.  
15 MR. NELSON: Aye.  
16 THE WITNESS: Mr. Rodriguez.  
17 MR. RODRIGUEZ: Yes.  
18 MS. FIELDS: Mr. Short.  
19 MR. SHORT: Yes.  
20 MS. FIELDS: Mr. Sowers.  
21 MR. SOWERS: Yes.  
22 MS. FIELDS: Mr. Winegardner.  
23 MR. WINEGARDNER: Yes.  
24 MS. FIELDS: Mr. Duzan.  
25 MR. DUZAN: Yes.

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1 MS. FIELDS: Motion passed.  
2 MS. CHARD: For the record, I want to  
3 clarify. Mr. Rodriguez, was your motion to accept  
4 the language with the edits that were provided  
5 today?  
6 MR. RODRIGUEZ: Yes.  
7 MS. CHARD: Thank you.  
8 MR. DUZAN: Okay. Moving on to Permanent  
9 Rulemaking OAC 252:653 Aquifer Storage and Recovery.  
10 We have Hillary Young.  
11 MS. YOUNG: I'm Hillary Young, Chief  
12 Engineer of Land Protection Division. And DEQ's  
13 proposing to amend Chapter 653, Aquifer Storage and  
14 Recovery.  
15 I presented these as discussion at the last  
16 council meeting and we haven't made any changes  
17 since then. So the first thing that we are  
18 proposing to amend are the definitions of Aquifer  
19 Storage and Recovery and Area of Hydrologic Effect  
20 to be more consistent with OWRB definitions.  
21 Applicants will be working with both DEQ and OWRB so  
22 it's important that these are consistent.  
23 The second is 653-1-12, and that is fees. These  
24 fees were approved by the council last year. They  
25 were then approved by the Environmental Quality

<p style="text-align: right;">Page 62</p> <p>1 Board. However, due to a procedural oversight which 2 was that the rules containing new fees must be 3 approved by the board while the legislature is in 4 session and the board had approved them in November. 5 DEQ removed the fees from the rules prior to final 6 approval by the legislature and governor. 7 So now we are simply putting the exact same fee 8 language back in. So we took them out, these are 9 the exact same fee language that was passed last 10 year, and we're just putting them back in because of 11 this procedural error. 12 Next are notifications. Last year the council 13 approved notification language as part of the 14 ASR Rules. At the Environmental Quality Board 15 meeting some board members had issues with that 16 language. And so they struck the notification 17 language when they passed the rules. 18 The board instructed DEQ to come up with 19 language and told us what they wanted to see. We 20 worked with select board numbers, industry and OWRB 21 to develop the language we have here, consulting 22 with them and taking their comments into account. 23 And once the language was drafted, we shared it with 24 the Environmental Quality Board at the last -- at 25 last February's board meeting.</p>	<p style="text-align: right;">Page 64</p> <p>1 hydrologic effect as directed by DEQ. And this 2 language is stated in this matter because depending 3 where the ASR project is located, a sparsely 4 populated area with not many water rights owners or 5 in a populated area with thousands of water rights 6 owners. We didn't want to specify how they would be 7 notified. It could be a mail out or notify city 8 council. So this would be on a case by case basis. 9 And this way we're not boxed in to something 10 specific. 11 Next are ground water associations as directed 12 by DEQ. Again the board wanted this. Didn't want 13 to specify an association name, because the name 14 could change or new associations could be formed. 15 And then associations that represent oil and natural 16 gas operators as directed by DEQ. This is a 17 modified version of what we had before. And as 18 directed by DEQ in the event the association names 19 change or new associations are formed. 20 And the next change comes in 252:653-7-7, 21 Aquifer Testing. DEQ had always planned to require 22 bench scale testing and field pilot as part of the 23 aquifer testing. However, last year a suggestion 24 was made by the council to specify those testing 25 requirements in the rules. And so that's what we're</p>
<p style="text-align: right;">Page 63</p> <p>1 So the first notification language is at 2 252:653-5-1.1. And this is the beginning of the 3 aquifer storage and recovery plant construction. So 4 prior to when a permit would be -- application would 5 be submitted for a water treatment plant, then they 6 would need to notify adjacent land owners to the 7 surface facilities. 8 Next is -- in Subchapter 7 is the next place 9 where notification requirements appear. That's 10 252:653-7-511. And this is at the -- when the 11 application for the aquifer storage and recovery 12 water delivery construction permit will be 13 submitted. And the applicant shall provide notice 14 of the application -- application of the following, 15 which is all landowners of properties that bordered 16 the proposed ASR water delivery and recovery surface 17 structure boundaries, which is, you know, the 18 surface facilities. 19 The next one is to Irrigation, industrial 20 commercial and public water supply in the area of 21 hydrologic effect. This was specifically requested 22 by the board. The board wanted us to increase the 23 scope of the notification OWRB reviewed this 24 language and said it would be no problem. 25 Next are water rights owners in the area of</p>	<p style="text-align: right;">Page 65</p> <p>1 doing here. We're putting this in the rules so that 2 everyone is clear that this is a requirement. 3 That's it. 4 MR. DUZAN: Okay. Discussion by the 5 council? Discussion by the public? Okay. Do we 6 have a motion for a vote? 7 MR. NELSON: Approve of the rule as 8 presented. 9 MR. SHORT: Second. 10 MR. DOZAN: Let's have a vote. 11 MS. FIELDS: Mr. Carr. 12 MR. CARR: Yes. 13 MS. FIELDS: Mr. Kindrick. 14 MS. KINDRICK: Yes. 15 MS. FIELDS: Mr. Matheson. 16 MR. MATHESON: Yes. 17 MS. FIELDS: Mr. Nelson. 18 THE WITNESS: Aye. 19 MS. FIELDS: Mr. Rodriguez. 20 MR. RODRIGUEZ: Yes. 21 MS. FIELDS: Mr. Short. 22 MR. SHORT: Yes. 23 MS. FIELDS: Mr. Sowers. 24 MR. SOWERS: Yes. 25 MS. FIELDS: Mr. Winegardner.</p>

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1 MR. WINEGARDNER: Yes.  
2 MS. FIELDS: Mr. Duzan.  
3 MR. DUZAN: Yes.  
4 MS. FIELDS: Motion passed.  
5 MR. DUZAN: Okay. Moving on to the  
6 director's report. Shellie.  
7 MS. CHARD: First, I'd like to make some  
8 introductions to the council. DEQ has a new general  
9 counsel. Sarah Penn is somewhere in the room.  
10 She's been with the agency for several years. She  
11 worked as an attorney in our air program and then  
12 was the deputy general counsel for several years.  
13 So if you have an opportunity to work with her,  
14 I'm sure you will find her easy to work with. And  
15 she kind of keeps us on track and following all the  
16 processes we need to follow.  
17 Many of you know Jennifer Boyle who's been one  
18 of the water quality attorneys for the last several  
19 years. She has moved into the position of deputy  
20 general counsel, but I'm not sure if she's in the  
21 room today. No, she is not. But you all know her.  
22 So if you see her you may want to offer your  
23 congratulations.  
24 For the council, I'm sure most of you may have  
25 heard by now one of you is retiring very soon. Jim,

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1 hopefully you're going to stay with us on the  
2 council for a while. I don't know if that's been  
3 decided, but we definitely want to thank you for  
4 your service and we've all enjoyed very much working  
5 with you. And even if you don't remain with the  
6 council after your retirement, don't be a stranger.  
7 MR. RODRIGUEZ: I have enjoyed this  
8 opportunity and appreciate the efforts made in  
9 Oklahoma to include industry in discussions of  
10 regulations and rules that impact industry. It's  
11 been a joy to be a part of this. Sometimes it  
12 wasn't -- it was maybe a joy minus. But most of the  
13 time it was a joy. And I will leave the term  
14 decision to industry, if they want to find someone  
15 who's currently active, then I'll resign and I'll  
16 make a recommendation. Thank you.  
17 MS. CHARD: We have also had another  
18 retirement. Jon, I know you're sticking around at  
19 least a little while with us. And hopefully we'll  
20 continue to see you, at least part of the time  
21 continuing your efforts with water and waste water  
22 communities around the state. But we definitely  
23 appreciate your service to the council and the State  
24 of Oklahoma, as well. And personally I know I will  
25 miss you when you decide to really retire full time.

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1 I know we go back 25 years. And I appreciate the  
2 opportunities to work with you over the years.  
3 MR. NELSON: I appreciate being a part of  
4 this.  
5 MS. CHARD: And, Jim, I can't believe you  
6 have joy minus. I mean, where else can you go and  
7 discuss laboratory accreditation fees for two hours?  
8 MR. HILDEBRAND: Snacks are provided,  
9 though.  
10 MS. CHARD: That's right, you got a snack.  
11 Just a couple of things that I wanted to mention  
12 to the council today. I know we've been here a long  
13 time. So this will be quick, I promise.  
14 You've heard federal government shut down  
15 discussions. I just wanted to share from our  
16 perspective what that really means for Oklahoma and  
17 for DEQ. EPA was actually able to operate a little  
18 bit longer. They had some operational reserves, so  
19 they did not shut down until around New Years. I  
20 think it was the Friday before New Years.  
21 They are still working emergency response and  
22 some of those high level critical functions are  
23 happening. DEQ does receive a substantial part of  
24 our budget from federal grants. The way that that  
25 process is set up, once a grant is awarded, if you

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1 utilize the electronic system of invoicing and  
2 payment, that will continue even during the shut  
3 down.  
4 So, for a short period of time a shut down does  
5 not really affect us too much on the financial side.  
6 Obviously no new grant awards will be made and there  
7 will be no review of documents or action on new  
8 grants. As far as our grants are concerned, by  
9 April we're in trouble. That's when all of the  
10 applications go in. And that's when we start that  
11 negotiation.  
12 So that's kind of where we are on the federal  
13 financial side. On problematic side, so far not  
14 huge impacts. But any projects that have been  
15 submitted to EPA for review, of course nothing is  
16 happening with those. So whatever timelines, that  
17 will be extended. We've already seen the first of  
18 the waters of the U.S. Public Information and  
19 Listening Sessions postponed. That was going to be  
20 in Kansas City. That was the one closest to us. It  
21 is postponed with no definite date. But we will be  
22 following that. It will be rescheduled at some  
23 point.  
24 One of the big things that it is impacting water  
25 quality and the oil and gas industry in Oklahoma is

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1 we have submitted our applications supplement for  
2 the NPDS program for Oklahoma to be the permitting  
3 authority for produced water discharges. We will --  
4 I assume we will pretty quickly reengage with EPA in  
5 that dialogue to get that information approved.  
6 Our governor's representative and attorney  
7 general signed their documents. We signed our  
8 documents and sent them. We sent them on the 20th  
9 of December. So we're waiting on that. But I know  
10 that's something that a lot of people have been  
11 really engaged and really interested in, when we  
12 were going to get that done. We have done our part.  
13 So now we wait.  
14 We do have an a new governor coming in. I'm  
15 sure you all have heard that by now. We've been  
16 working with the transition team providing briefing  
17 documents and requested information to get everybody  
18 up to speed. We will continue to do that over the  
19 next few weeks.  
20 We do have a new secretary of energy and  
21 environment named. And then he will, we hope, take  
22 on that role full time very quickly. Ken Wagner, he  
23 spent some time in Washington, D.C. at EPA. He's  
24 somebody that is known for working very closely with  
25 states. The Oklahoma Secretary of Energy and

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1 Environments office and DEQ director Scott Thompson  
2 have known Ken and have interacted with him for  
3 quite some time. Many of us have had some  
4 experience dealing with Ken. And for a secretary of  
5 energy and environment he's going to be a real asset  
6 for the state.  
7 He's going to work really well with the state  
8 agencies. I'm sure based on his background he  
9 really has a good understanding of state and  
10 environmental agencies, how they function, the  
11 importance to engage with partners, co-regulators  
12 with EPA, partners with regulated community. So  
13 that's going to be really a positive thing for DEQ.  
14 One last thing to brag on Oklahoma and DEQ a  
15 little bit. We've been asked to participate with  
16 EPA, once they get back to work, on the framework  
17 for advancing water reuse. There are three areas  
18 that the assistant administrator for water wants to  
19 focus on. They should sound familiar to most of  
20 you, indirect portable reuse, non portable reuse and  
21 produced water. So they have provided a handful of  
22 states, various federal agencies and NGOs to work  
23 with them to develop a framework and see how they  
24 can assist and not impede the furthering of water  
25 rescue. And they've been asked to help clarify

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1 where Safe Drinking Water Act and Clean Water Act  
2 authorities change. Everybody's kind of doing it on  
3 a case by case basis. And we think we have a good  
4 handle on that. So we'll see where those  
5 conversations take us.  
6 So that's all I have at this time, unless  
7 somebody has questions for me.  
8 MR. DUZAN: Okay. Our next meeting -- does  
9 anybody remember --  
10 MR. HILDEBRAND: April 23rd.  
11 MR. DUZAN: -- April 23rd.  
12 MS. CHARD: 2:00, this room.  
13 MR. DUZAN: April 23rd, 2:00, this room.  
14 The next DEQ board meeting is February 15th.  
15 MR. HILDEBRAND: Yes.  
16 MR. DUZAN: In this room, as well.  
17 MS. CHARD: 9:30.  
18 MR. DUZAN: 9:30. Okay. If there is no  
19 other news, do we have a motion for adjournment?  
20 MR. RODRIGUEZ: Let's adjourn.  
21 MR. NELSON: Second.  
22 MR. DUZAN: Let's have a vote.  
23 MS. FIELDS: Mr. Carr.  
24 MR. CARR: Yes.  
25 MS. FIELDS: Ms. Kindrick.

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1 MS. KINDRICK: Yes.  
2 MS. FIELDS: Mr. Matheson.  
3 MR. MATHESON: Yes.  
4 MS. FIELDS: Mr. Nelson.  
5 MR. NELSON: Yes.  
6 MS. FIELDS: Mr. Rodriguez.  
7 MR. RODRIGUEZ: Yes.  
8 MS. FIELDS: Mr. Short.  
9 MR. SHORT: Yes.  
10 MS. FIELDS: Mr. Sowers.  
11 MR. SOWERS: Yes.  
12 MS. FIELDS: Mr. Winegardner.  
13 MR. WINEGARDNER: Yes.  
14 MS. FIELDS: Mr. Duzan.  
15 MR. DUZAN: Yes.  
16 MS. FIELDS: Motion passed.  
17 MR. DUZAN: And we're adjourned.  
18 (Meeting adjourned at 3:54 P.M.)  
19  
20  
21  
22  
23  
24  
25

1 CERTIFICATE  
2 STATE OF OKLAHOMA )  
 ) SS:  
3 OKLAHOMA COUNTY )  
4 I, Brenda Plumbtree, Certified Shorthand  
5 Reporter within and for the State of Oklahoma, do  
6 hereby certify that the above and foregoing meeting  
7 was by me taken in shorthand and thereafter  
8 transcribed; that the same is true and correct; and  
9 that it was taken on the 8th day of January, 2019 at  
10 the time of 2:00 P.M. in the City of Oklahoma City,  
11 County of Oklahoma, State of Oklahoma under the  
12 stipulations hereinbefore set out, and that I am not  
13 attorney for or relative of any of said parties or  
14 otherwise interested in the event of said action.  
15 IN WITNESS WHEREOF, I have hereunto set my hand  
16 and official seal this 16th day of January, 2019.  
17  
18  
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25



BRENDA PLUMBTREE, CSR  
Oklahoma Certified Shorthand Reporter  
Certificate No. 01434  
Expires: December 31, 2019





# WATER QUALITY MANAGEMENT ADVISORY COUNCIL

## Attendance Record

January 8, 2019

Department of Environmental Quality  
Oklahoma City, Oklahoma

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Attendance Record

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Department of Environmental Quality  
Oklahoma City, Oklahoma

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